

# IMPLEMENTATION OF THE HELSINKI ACCORDS

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## HEARING BEFORE THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE NINETY-NINTH CONGRESS FIRST SESSION

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SOVIET FORCED LABOR PRACTICES

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AUGUST 15, 1985  
BUFFALO, NY

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# CONTENTS

AUGUST 15, 1985

## WITNESSES

|                                                                                                                                                                           | Page |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| Vins, Pastor Georgy, former Soviet political prisoner and leader of the reform or underground Baptist movement in the Soviet Union .....                                  | 5    |
| Ginzburg, Aleksandr, former Soviet political prisoner and member of the Moscow Helsinki Group .....                                                                       | 13   |
| Miller, Richard W., Associate Commissioner, U.S. Customs Service .....                                                                                                    | 21   |
| McBrien, J. Robert, Deputy for Security Affairs and Crisis Management, Office of the Assistant Secretary for Enforcement and Operations, Department of the Treasury ..... | 22   |
| Popeo, Daniel, founder and general counsel of the Washington Legal Foundation .....                                                                                       | 34   |

## APPENDICES

|                                                                                                                                                                                            |    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| 1. U.S. Law Prohibiting the Import of Forced-Labor Made Goods .....                                                                                                                        | 49 |
| 2. Legal Elements and Evidentiary Standards for Application of 19 U.S.C. 1307, Prohibiting the Importation of Convict-Made Merchandise .....                                               | 50 |
| 3. Synopsis of Cases Under 19 U.S.C. 1307 .....                                                                                                                                            | 55 |
| 4. Value of U.S. Imports From the U.S.S.R. Falling Under the Purview of Section 307 of the 1930 Tariff Act .....                                                                           | 58 |
| 5. Note on the Economic Impact of the Forced-Labor Import Ban .....                                                                                                                        | 59 |
| 6. CIA List of Soviet Industries and Products in Which Forced Labor is Used Extensively, September 27, 1983 .....                                                                          | 60 |
| 7. First Draft Customs Recommendation for Withholding Release of Merchandise From the Soviet Union Which May be Produced by Convict, Forced and Indentured Labor, September 28, 1983 ..... | 63 |
| 8. Second Draft Customs Recommendation for Withholding Release of Merchandise From the Soviet Union Which May be Produced by Convict, Forced and Indentured Labor, February 1984 .....     | 72 |
| 9. Letter from Intelligence Director William J. Casey to Treasury Secretary Regan, May 16, 1984 .....                                                                                      | 73 |
| 10. Memorandum from Treasury Secretary Regan to Customs Commissioner William von Raab Delaying Action on the February 1984 Customs Recommendation, May 16, 1984 .....                      | 74 |
| 11. Report of the International Trade Commission (Executive Summary), December 1984 .....                                                                                                  | 75 |
| 12. Letter from Intelligence Director William J. Casey to Treasury Secretary Regan, January 17, 1985 .....                                                                                 | 83 |
| 13. Memorandum from Treasury Secretary Regan to Customs Commissioner William von Raab with Final Decision not to Act on the February 1984 Customs Recommendation, January 28, 1985 .....   | 84 |

## PUBLIC HEARING ON THE ISSUE OF FORCED LABOR IN THE SOVIET UNION

THURSDAY, AUGUST 15, 1985

COMMISSION ON SECURITY AND  
COOPERATION IN EUROPE,  
Buffalo, NY.

The Commission met, pursuant to notice, in room 911 of the Federal Building, 111 West Huron Street, Buffalo, NY, at 10:45 a.m., Senator Alfonse M. D'Amato (chairman) presiding.

In attendance were Michael R. Hathaway, staff director.

### OPENING STATEMENT OF CHAIRMAN D'AMATO

Chairman D'AMATO. Mr. Vins is one of our first speakers. Could you step up here, please?

On Tuesday, July 9 this year, we paid tribute to Lydia Vins. Let me just read you part of this.

[Presentation read by Chairman D'Amato:]

### TRIBUTE TO LYDIA VINS

JULY 9, 1985

Mr. President, on May 19 of this year a brave and noble lady, Mrs. Lydia Vins, passed from our midst. Mrs. Vins was a leader in the Ukrainian Evangelical Baptist movement in the Soviet Union. For her defense of the rights of Christians in her homeland, she spent three years from 1971-74 in a labor camp. In 1979, she joined her son, Pastor Georgi Vins, in the United States after the United States exchanged two Soviet agents for Pastor Vins and four other Soviet human rights activists.

In her new home in Elkhart, Indiana, Mrs. Vins continued her tireless efforts on behalf of her co-religionists in the Soviet Union. She was active in the International Representation for the Council of Evangelical Baptist Churches of the Soviet Union, founded by Pastor Vins. She also served as director of external representation for the Council of Prisoners' Representatives, an organization that attempts to aid the families of Evangelical Christians imprisoned for their faith in the Soviet Union. Even in her advanced years, Mrs. Vins travelled extensively in the free world, calling attention to the suffering of Christians in the Soviet Union. She worked tirelessly to expose the fraudulent facade of lofty pronouncements behind which Soviet authorities strive to mask the persecution of those citizens who continue to practice their religious faith.

Lydia Vins' entire life was one of spiritual devotion and earthly trial. Her husband, Pastor Peter Vins, was arrested three times in post-Revolutionary Russia, and finally disappeared in one of Stalin's labor camps during the Great Terror of the late 1930's. Her son, Georgi, served 3 years in labor camp from 1966-69, another year at "mandatory labor" in 1970, and was sentenced in 1975 to a total of 10 years in prison camp and exile. Georgi's eldest son Peter spent a year in prison camp for having been a member of the Ukrainian Helsinki Monitoring Group, and was beaten and threatened on several occasions by KGB thugs.

Mr. President, the persecution of the Vins family and their endurance in the face of this persecution is but one chapter in the tragic experience of the Evangelical Baptist movement in the Soviet Union. It is, unfortunately, an unfamiliar chapter

to most Americans. We hear too little of the fates of persons like Pastors Gennady Kryuchov, Dmitri Minyakov, and Nikolai Baturin, or Vitaly Varavin and Mikhail Khorev, to name just a few. At last count, the Soviet Union had imprisoned more than 200 Evangelical Baptists.

Through the efforts of Lydia Vins and Pastor Georgi Vins, we have learned much of what we now know about the systematic Soviet persecution of Evangelical Baptists. Now, knowing, we must not remain silent. We must call the Soviet Government to account for these and many other violations of the religious and human rights provisions of the Helsinki Accords, and demand that the Kremlin live up to past agreements before we accept their signatures on new ones.

The greatest possible tribute to Lydia Vins, in my opinion, would be to further the cause of religious freedom, to the best of our ability, so that her dream that her countrymen may someday enjoy the exercise of this fundamental freedom may be realized. After all, if the leaders of the Soviet Union will not keep this basic promise they made to their own people when they signed the Helsinki Final Act, how credible can be any promises they make to us?

Thank you, Mr. President.

Chairman D'AMATO. We are here today to discuss the issue of forced labor in the Soviet Union. As many of you know, the Helsinki Commission was created by the U.S. Congress to monitor and encourage compliance with the provisions of the Helsinki Final Act. Just 2 weeks ago the foreign ministers of the 35 nations who signed that document, including Secretary Shultz and the Soviet Foreign Minister, met in Helsinki to commemorate this 10th anniversary and to reaffirm the commitment of the respective governments.

It is, indeed, unfortunate that 10 years after Mr. Brezhnev signed his name to the Helsinki Final Act that the Soviet Union continues to blatantly disregard its provisions dealing with human rights and fundamental freedoms. Those Soviet citizens who took Brezhnev's signature seriously and who acted upon their rights as embodied in the Final Act have usually found themselves in the Soviet Gulag, a network of about 1,100 labor camps located throughout the U.S.S.R. The Gulag network is the largest forced labor system in the world, holding captives as many as 5 million Soviet citizens, including about 10,000 political prisoners.

Today we are going to hear some of the testimony from people who have been part of that—who have been in prison, who have been enslaved, who have been forced into slave labor. I am going to ask, for the record, so that we can hear these people testify, that the balance of my remarks be included as if read in its entirety and call our first witnesses, but first let me make this one observation. I think it is indefensible for this Nation to turn its back on the conditions that exist in the Soviet Union—that we know have existed since before 1930—and we have not done what we should be doing. We are not preventing the products of slave labor, wherever they may come from, from entering this Nation. A nation that acts with this kind of political hypocrisy and expedience cannot be, certainly, doing justice to its people.

If the law needs to be changed, let us change it, but let us not say that the law says one thing and then we do another. Let us not misinterpret the law deliberately. Let us not go about in knowing noncompliance. I believe that this is a good law and that we should adhere to the principles of this law.

[Chairman D'Amato's prepared statement follows:]

## PREPARED STATEMENT OF CHAIRMAN D'AMATO

The conditions under which forced laborers live and work are almost beyond comprehension. The cells are dark, overcrowded, and unsanitary. There is very little heating in the camps, even during the coldest of the Siberian winter months. Clothing, strictly rationed by camp authorities, is always in short supply.

Food is always rationed and the complete denial of food is frequently used as a form of punishment. At the slightest sign of disobedience, the regular diet, itself grossly inadequate, is reduced. This literally starves prisoners into submission to camp authorities.

Prisoners are often deprived of family visits, sometimes for years on end. Medical care, vital to sustain sound health—and even life itself—under such primitive and brutal living conditions, is grossly inadequate. The recent deaths of several prisoners of conscience is a most telling sign of how terrible camp conditions are.

The Soviet Gulag serves two basic purposes. First, it isolates and punishes millions of people, some of whom are criminals, but many of whom are either prisoners of conscience or simply conscripted forced laborers.

Second, it maintains and perpetuates the Soviet economic system. Many former prisoners of the labor camps have said that nearly all sectors of the Soviet economy rely on forced labor to meet the specified quotas demanded by the central planners. Forced laborers are assigned tasks that other workers, no matter what the incentives, will not do. In other words, when the Soviet system needs a huge labor force that is cheap, flexible, subject to discipline, and which can be sent to work on projects in remote areas with difficult climatic conditions, the Soviet judicial system is put to work. What labor the camps need, they get.

Thus, in the freezing Siberian wilderness, forced laborers are felling timber, while others are cutting the wood into lumber or making furniture, often losing fingers or entire hands while working on dangerously unsafe machinery. Still others are cutting glass to make chandeliers and other elegant glasswares for export to the West. These workers breathe in glass dust and spit out blood in the process. All this goes on daily in the "workers paradise."

Thanks to the work of the Helsinki Commission and other organizations concerned with such abuses of human rights, Members of the United States Congress have become increasingly aware of the Horrors of the Soviet Gulag. This has been particularly true in recent years, with the growing realization that many United States businesses are importing categories of items from the Soviet Union whose manufacture involves the utilization of Soviet forced labor. Importing goods made with Gulag labor both violates our basic values and offends our ethical standards. It makes us accomplices to the atrocities that take place in the camps. It is also a violation of U.S. law.

Section 307 of the 1930 Tariff Act (usually known as the Smoot-Hawley Tariff Act) states that "all goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part in any foreign country (by forced labor) shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited."

The U.S. Customs Service is responsible for the enforcement of this law. In September 1983, the Commissioner of Customs, William von Raab, recommended to the Secretary of the Treasury, who supervises the Customs Service, that approximately 36 classes of merchandise be barred from import into the United States. This recommendation was based on the strong belief that items falling under those classes are made with the use of forced labor in the Soviet Union. Reportedly, the Treasury Secretary, Donald Regan, discussed the issue with Secretary of State, George Shultz and other top administration officials and made the conscious decision not to enforce the law.

This action was certainly against the wishes of the U.S. Congress. Since the time the recommendation was first made, Members of both the House and the Senate have repeatedly written letters to both Regan and the new Treasury Secretary, James Baker, supporting a ban and urging immediate action.

In November 1983, the Helsinki Commission held a hearing on the subject. The brutal forced labor system in the U.S.S.R. was thoroughly examined and the Helsinki Commissioners expressed their desire to see the law properly enforced.

At the request of Senator William Armstrong of Colorado, the Senate Finance Subcommittee on International Trade recently held a hearing in an attempt to find out why the law of the land is being ignored. In addition, the Helsinki Commission's Cochairman, Representative Steny Hoyer of Maryland, has sought to deny funds for Treasury activities that would result in an action "that would prohibit or otherwise prevent the Customs Service from enforcing section 307 of the 1930 Tariff Act." Sev-

eral congressional resolutions have also been introduced, including one by Helsinki Commissioner Chris Smith, a Representative from New Jersey. Thirty-Five Members of Congress, represented by the Washington Legal Foundation, even sued the U.S. Government to compel enforcement of section 307.

Despite these efforts, the Treasury Department has continually refused to enforce the law and invoke the ban. Administration officials usually cite two reasons for not enforcing the law, both of which I find to be inadequate.

First, they say there is a lack of sufficiently specific and conclusive evidence that items being imported are actually being produced with Soviet forced labor. Second, they express concern over the trade and foreign policy implications of the proposed ban. I would like to comment on both of these points.

According to the Federal regulations defining the procedures the Commissioner of Customs is supposed to follow in enforcing section 307, if there is credible evidence that certain classes or merchandise are made by forced labor in a particular country, and if the United States is importing, or even likely to import, items from that country that fit into those classes, then, by law, these items should be banned. The regulations say nothing of the need to prove that the specific item being imported was actually made in a certain forced labor camp. The fact that certain classes of merchandise are made with forced labor makes such a finding justifiable and legally necessary. Any item of a class specified in a finding could then only be imported after the importer proves with satisfactory evidence that no forced labor was used in its production.

Currently, there is sufficiently credible evidence that certain categories of goods are made with forced labor in the Soviet Union to allow the Customs Commissioner to use reasonably narrow classifications and bar their importation. The Commissioner himself must think so, since he is the one who must make such a determination.

In fact, he has done so. Unfortunately, other administration officials have continually overstated the degree of specificity needed to invoke a ban. They continue to use this flawed argument to prevent Customs from taking the appropriate—and legal—action.

The State Department has expressed its concern that the enforcement of section 307 might be perceived by some as economic warfare against the U.S.S.R. State also worries about the likely Soviet response.

There is very little validity to this argument. Soviet utilization of forced labor violates the U.N. Charter, the Universal Declaration on Human Rights, the 1926 Slavery Convention, ILO Convention 29, the Covenant on Civil and Political Rights, and the Covenant on Economic, Social and Cultural Rights. It also flouts the spirit of the Helsinki Final Act and the Madrid Concluding Document. Furthermore, the proposed ban would affect an insignificant amount of the trade of both the United States and the Soviet Union.

Considering such facts, it would be difficult to charge the United States with starting economic warfare for doing what our law binds us to do to help stamp out a practice which is in flagrant violation of international agreements and commitments. In addition, consideration of possible Soviet responses should not be used as a reason for our failure to enforce U.S. law, let alone to allow our inaction to be seen as silent concurrence to these brutal Soviet practices.

If the administration feels that enforcing the law may be detrimental to U.S. interests, they should propose that the law be repealed. It should not simply be ignored.

Today, I again call for the enforcement of section 307 of the 1930 Tariff Act with regard to Soviet goods made with forced labor. Let's stop subsidizing Soviet forced labor by importing Gulag-made goods. Let the Customs Service do its job. I'm calling on the CIA to provide Customs and Treasury with all of the evidence our intelligence community has been able to gather on Soviet forced labor. The CIA has to stop sending over lists of goods and then taking back its judgment that these goods are made with forced labor when Customs tries to enforce the law. Give Customs the evidence and let them decide.

We must not ignore Soviet forced labor practices. Soviet reliance on forced labor violates the most fundamental values of free people. If we allow our businesses to continue to import items made with such labor, the U.S. Government becomes an accomplice to the horrors inflicted on the innocent in the Gulag's camps.

We must make it clear to the Soviet Union that this horrible practice is unacceptable and must be stopped. The American people want no part of it. Until it is stopped, the Soviet Union cannot be considered a member of the community of civilized nations.

Chairman D'AMATO. We call our first panel, Pastor Vins and Mr. Ginzburg.

Is Mr. Vins going to testify first?

Mr. FINERTY. Mr. Chairman, Mr. Vins will testify first.

Chairman D'AMATO. All right. For purposes of the record, Mr. Finerty, John Finerty of the Helsinki Commission, will translate for Pastor Vins. Pastor Vins will be speaking in Russian and we have a written statement by the Pastor. Mr. Finerty will translate Pastor Vin's remarks into English for us.

#### STATEMENT OF PASTOR GEORGY VINS

Pastor VINS. I have entitled my statement: "Slave Labor and Inhuman conditions in Soviet Corrective-Labor Camps as Affecting Evangelical Christian Baptists." I possess numerous documents from the Soviet Union which reveal startling facts about the present condition of Evangelical Christian Baptist prisoners, arrested and incarcerated for belief in God.

In addition, I can give personal testimony about the inhumane treatment and forced labor of Soviet prisoners because I was a prisoner for 8 years in labor camps in the northern Urals and in north-east Siberia. It is common knowledge that slavery has been officially abolished and prohibited by all of the civilized governments in the world today. In the Soviet Union, however, so-called corrective labor institutions employ the forced slave labor of prisoners. Conditions are created for the physical destruction of prisoners, which include long hours of hard physical labor—10 to 14 hours per day—unattainable daily production quotas, malnutrition, lack of potable water in some areas, wet, dark, cold, unsanitary living conditions, absence of industrial safety measures resulting in incurable diseases, injuries, loss of health or death by tragic accident, and also denial of medical attention.

I am going to move now to my personal testimony about my experiences in the camp. I was twice sentenced to Soviet concentration camps. The first time I was in the Urals. As a rule, in the northern Urals, the lumber industry is what is exploited through forced labor. In the winter, when temperatures drop to 55 degrees below zero Celsius, prisoners still trudge through the forests guarded by armed soldiers and watchdogs. Both food and clothing were inadequate—no meat, butter, or other fats in the diet and no warm clothes suitable for the harsh climate. Very often prisoners' hands, feet, and faces get frostbitten. Some prisoners at my camp got frostbite so badly that parts of their toes died slowly and then fell off. Our living quarters were poorly heated during the coldest weather. The barracks were festered with swarms of rats that insisted on climbing into prisoners' beds to get warm. Of course, I want to be brief as possible. If anyone wants to read this in detail, I have copies of my testimony in English.

In the Perm Oblast alone, the Perm area, there were about 100 camps for prisoners. This is about 100,000 prisoners. This is only in one Oblast, in one region, and there are many of these regions in the Soviet Union.

For instance, what was going on there? Well, they prepared wood and lumber products. Part of these lumber products, of course,

went for export. There were, in every one of these camps, little shops where a specialist, for instance, would do woodwork such as these Matroshki dolls and such as these chess sets here. A huge assortment of these things were produced. Generally they had about 10 or 15 people in each camp who worked specifically on the so-called consumer goods. Of course, these toys look very good, but you have to remember that it was hungry people that made them.

My second camp term was in Yakutskaya Oblast and that is the northeastern section of Siberia. For instance, there was a factory in Yakutskaya, or Yakutsk, that turned out furniture and also wooden carts for people who worked in the coal industry and in the gasoline, the natural gas and oil industry in Siberia. Basically my information concerns those Evangelical Baptists who are in camps at the moment. At the moment, right now there are 150 Baptists in camps. They are all over the Soviet Union in different camps. For instance, you have this motor here. I suspect that this has been made in one of the Soviet camps. I know, for instance, that in Ukraine in the Kiev Oblast, there are six camps that are directly attached to industry outside the camp system; for instance, there is one camp that turns out components for radios.

That is an integral part of a radio factory, a radio producing concern in Kiev. There is another camp that is involved in the production of farm machinery where the prisoners put together the parts and paint them. In the Karkov area these camps are part of a tractor factory; for instance, you can obtain in the United States an automobile called the Lada. This is produced in Togliatti, which is part of the Kuibyshev Oblast. There are a lot of camps around this Kuibyshev Oblast, Saratov, for instance, and they are all part of this Togliatti auto factory in Kuibyshev.

I would just like to bring up a few cases of people who are prime examples of people whose health has been ruined and suffered in the camps.

For instance, Aleksandr Vasilievich Krugovikh is 39 years old. He is being held in the city of Petrovskoye, which is in the city of Voroshilovgradskaya Oblast in Soviet Ukraine. He works in a glass factory. It is very harmful. There is no ventilation. The prisoners breathe the glass dust. They don't even give them gloves. This glass fiber eats the skin off their hands. Krugovikh's hands are reported to be like a large open wound. This is the latest information that I have for you.

For instance, in Yakutsk there is a gentleman, Nikolai Filippovich Popov, who is 58 years old. I was there myself. This is a reinforced concrete factory. There is no ventilation. The air is permeated with concrete dust. After about 2 or 3 months of this, a prisoner gets silicosis.

Dmitri Vasilievich Minyakov, 64 years old, is in a camp in the city of Kuibyshev where, as I mentioned, they work on these agricultural machinery products. He is ill with tuberculosis of the lungs, asthma. He weighs only 53 kilograms, that's 117 pounds, and he is 6 feet tall. That's a gentleman half alive that day. They force him to work. He can't cope with the work. They put him in the isolation cell. They even use tear gas against the prisoners. I'm finished now, but I think you have an idea that this is slave labor—and it is inhumane. It is not a humane use of work.

[Pastor Vins' written statement follows:]

SLAVE LABOR AND INHUMANE CONDITIONS  
IN SOVIET CORRECTIVE-LABOR CAMPS  
AS AFFECTING EVANGELICAL CHRISTIAN BAPTISTS

I possess numerous documents from the Soviet Union which reveal startling facts about the present condition of Evangelical Christian Baptist prisoners, arrested and incarcerated for belief in God. In addition, I can give personal testimony about the inhumane treatment and forced slave labor of Soviet prisoners, because I was a prisoner for eight years (two terms), in labor camps in the Northern Urals and in northeast Siberia.

Today 148 Evangelical Christian Baptists are held in Soviet prison camps. All have been sentenced for preaching the Gospel, praying, and other religious activities. Their health has been broken and some have died from malnutrition, unsanitary conditions, and inhumane demands forced upon them.

It is common knowledge that slavery has been officially abolished and prohibited by all civilized governments in the world today. In the Soviet Union, however, so called "corrective labor institutions" employ the forced slave labor of prisoners. Conditions created for the physical destruction of prisoners include:

- Long hours (10-14 per day) of hard physical labor
- Unattainable daily production quota
- Malnutrition
- Lack of potable water in some areas
- Wet, dark, cold, unsanitary living quarters
- Absence of industrial safety measures, resulting in  
incurable diseases, injuries, loss of health, and death  
by tragic accident
- Denial of medical attention

The following examples reflect the conditions of Evangelical Christian Baptist prisoners held in Soviet labor camps today:

Aleksandr Vasilievich KRUGOVIKH, 39, works at an unventilated glass factory where prisoners breathe harmful glass dust. In addition, camp administrators do not provide special gloves, and the glass particles eat away the skin on hands. Krugovikh's hands are reported to be like a large open wound. Arrested January 25, 1984, he is serving a four year sentence, ordinary regime.

Address: uchr. UL 314/24  
g. Petrovskoye  
Voroshilovgradskaya obl. 349333  
SOVIET UNION

Nikolai Filippovich POPOV, 58: prisoners in this camp work at a concrete-iron factory. Lack of ventilation causes serious health problems, since the air is full of concrete dust. Prisoners here work six days a week, ten hours a day. Within 2-3 months, concrete dust covers the lungs and prisoners commonly contract silicosis. Arrested December 14, 1983, Popov is serving a five year sentence, strict regime.

Address: uchr. YaD 40/36-6  
pos. Mokhsogolokh  
Ordshonikidzevsky raion  
Yakutskaya ASSR 678020  
SOVIET UNION

Yakov Frantsevich DÜRKSEN died at age 61 in a labor camp on May 2, 1985. Dürksen was put on trial three times and spent 11 years total imprisoned for faith in God. During his first term served at a camp in Dzhezkazgan (Kazakhstan) 1953-55, he was forced to work in copper mines where he contracted an incurable disease, silicosis. He was arrested for the last time in March 1981, and sentenced to five years strict regime plus confiscation of property. Address at time of death:

uchr. UB 14/10 "Zh"  
g. Zmeinogorsk  
Altaisky krai 658460  
SOVIET UNION

Dmitri Vasilievich MINYAKOV, 64, suffers from tuberculosis of lungs, severe asthma, and complications following a heart attack while a prisoner. At height of 175 cm.(6 feet), he weighs only 52 kg. (117 lbs.). The camp administration forces him to work knotting net bags. Weak and exhausted, his hands tremble, so Minyakov can manage only two of the eighteen needed to meet quota. For this, he was locked in a punishment cell many times. The camp administration filled the crowded, unventilated cell with tear gas to taunt the prisoners. This experience was almost a death blow to Minyakov, because of his asthma and overall frail health. Minyakov was arrested in January 1981 and sentenced to five years strict regime (his third term) plus confiscation of property.

Address: uchr. UR 65/4  
g. Kuibyshev 443026  
SOVIET UNION

Nikolai Yerofeyevich BOIKO, 63, has been imprisoned a total of 15 years for faith in God. During the last five years he was permitted only one of the scheduled annual visits with his family. His children described their impressions: "Our father is 63 years old. His health has been broken by the severe climatic conditions of Khabarovsk krai. Now he has high blood pressure. Continuous hunger, lack of sleep, cold and wet cells of solitary confinement have wasted away our father's health. He is pale, exhausted, emaciated. He looked drained of blood. He is even shorter now."

Camp administrators forced Boiko to attend political lectures and cinema after work, but he refused. "I refuse to attend political lectures and cinema," he told the camp director, "because their goal is to reeducate me in the spirit of atheism." The camp director answered, "Just the same, we will break you, and if not, we'll rot you!" Boiko was locked in punishment cells and solitary confinement frequently, for 10-15 days at a time. Finally, on June 1, 1985, half-way through his ten-year sentence. KGB and government officials put Boiko on trial again and added 2½ years strict regime labor camp to his sentence. Camp address before trial June 1:

uchr. YaB 259/8  
pos. Start  
Komsomolsky raion  
Khabarovsk krai 681001  
SOVIET UNION

Vladimir Petrovich ZINCHENKO, 35, is forced to work 12 hours a day and not allowed to sleep more than 4-5 hours at night. He was arrested February 1984 and sentenced to 3 years strict regime, his second term. Address:

uchr. ZhKh 385/7  
pos. Sosnovka  
st. Potma  
Mordovskaya ASSR 431120  
SOVIET UNION

Yakov Grigorievich SKORNYAKOV, 57, suffers from a stomach ulcer, liver disease, and eczema on his hands. His camp is located at Mangyshlak, a peninsula on the Caspian Sea, where there is no natural source of potable water. Climatic conditions are severe: summers are hot and windy; drinking water, shipped from the mainland, is strictly rationed to the prisoners. In the winter, humidity, fog, and high winds characterize this camp surrounded by barren desert.

Skornyakov works 14 hours a day, including Sundays, winding thread on spools. He was not released from his second term June 1983, but was resentenced to 3 years strict regime.

Address: uchr. 172/5 "I"  
g. Novy Uzen  
Mangyshlakskaia obl. 466207  
SOVIET UNION

Lubov Nikolaevna SKVORTSOVA, 26, is very weak and suffers from heart disease. She was arrested February 1983 and sentenced to 3 years.

Address: uchr. YuZh 313/54  
g. Kharkov 310124  
SOVIET UNION

Vasily Leontevich SLIUSAR, 55, must work heavy construction though he has an injured hand. He was arrested October 1984.

Address: uchr. IV 301/59  
s. Trudovoe  
Peschansky raion  
Vinnitskaya obl.  
SOVIET UNION

Evelina Stepanovna ZHUKOVSKAYA, 45, is serving a five-year sentence at a women's camp where prisoners are fed rotten green tomatoes, rotten cabbage, no meat, no fats. She was arrested May 1983.

Address: uchr. UL 34/5  
g. Kozlovka  
Chuvashskaya ASSR  
SOVIET UNION

Valentina Ivanovna KOKURINA, 55, has contracted eczema, which now covers her hands, legs, face, and all her body. In a recent letter she wrote: "Physically I am very weak. I feel dizzy, my eyes hurt, and at the end of the day my whole body aches. I go to bed as soon as I return from work to get strength for the next shift." She was arrested May 1983 and sentenced to 2½ years ordinary regime.

Address: uchr. YUG 311/84  
g. Odessa 270091  
SOVIET UNION

Alevtina Alekseyevna PANFILOVA, 49, has heart disease, faints frequently, and is unable to work. The camp administration forces her to work, disregarding her poor health. She was arrested May 1983 and sentenced to 2 years ordinary regime.

Address: uchr. YUG 311/74  
g. Odessa 270059  
SOVIET UNION

Mikhail Ivanovich KHOREV, 54, has heart disease and is almost blind (he has no sight in one eye and only 5% vision in the other). He was not released following completion of his five-year term in November 1984, but was resented to another 2 years strict regime.

Address: p/ya YAE 30E/RB  
pos. Yuzhny  
g. Ulan-Ude 670016  
SOVIET UNION

Gerhard Gerhardovich DIK, 59, suffers from silicosis. He was arrested October 1982 and sentenced to 4 years.

Address: uchr. 94/4  
Kabansky raion  
Buryatskaya ASSR 671111  
SOVIET UNION

**Ivan Andreevich Baraniuk**, 61, suffered a serious head injury when he fell while working heavy construction. Prisoners are undernourished at the strict regime camp where he is serving 3 years since his arrest in October 1983.

Address: uchr. YaE 308/45  
pos. Makartovo  
Sofievsky raion  
Dnepropetrovskaya obl. 322723  
SOVIET UNION

### Personal Testimony

In 1967-1969 I was imprisoned in the lumber camps in the northern Urals, Permakaya oblast. In the winter when temperatures dropped to -55 degrees Celsius, prisoners still trudged to the forest to work, guarded by armed soldiers and watch dogs. Both food and clothing were inadequate: no meat, butter, or other fats in the diet; no warm clothes suitable for the harsh climate. Very often prisoners' hands, feet and faces got frostbitten. Some prisoners and I got frostbite so badly that parts of their toes first slowly died off and then fell off.

Our living quarters were poorly heated. During the coldest weather the barracks were infested with rats that insisted on climbing into prisoners' beds to get warm. In spring and fall our shoes and clothing were soaked by rain.

I worked with other prisoners building railroads to be used for transporting logs to the river. Prisoners weren't given any type of machinery and we had to clear the forest by hand, root out the stumps, carry away the rocks and sand. Many prisoners, unable to do this type of work, injured themselves: some broke their hands, others chopped off fingers with an axe to escape work for 3-6 months. When a team of prisoners failed to meet their quota, the camp administration put all the team (30-40 people) on reduced food rations, diminishing their already meager portions by 50%.

"Anyusha," our labor camp with its 600-800 prisoners, was located 70 km from Kizil, Permskaya oblast. Other labor camps involved in timber enterprise were located in the area and held 1200-1500 prisoners. A total of 100,000 prisoners populated the 100 labor camps near Perm during 1967-1969. Near Permskaya oblast are Kirovskaya, Sverdlovskaya, and KomiASSR, each with many timber-producing labor camps.

**Yakutsk camps:** From 1975-79 I served my term in the camps of Yakutskaya ASSR, in northeast Siberia. These camps are "Mokhsogolokh," 90 km south of Yakutsk, "Bolshaya Markha," 6 km from Yakutsk, and "Tabaga," 26 km from Yakutsk.

Mokhsogolokh camp holds 1500-1700 prisoners who work at the large concrete factory. This industry is hazardous to the health because the air is full of concrete dust and there is no ventilation. Many cases of prisoners contracting silicosis have been reported. The work is very hard. Many prisoners commit suicide. Bolshaya Markha camp holds 600-800 prisoners, who work at a brick-manufacturing factory where many processes are done by hand. Tabaga camp holds 800-1000

prisoners who work at the wood-processing factory. Although machinery is used for the heavy work, no industrial safety precautions are taken. Accidents are frequent, with prisoners falling under the blades and saws of unprotected equipment. From 1975-1979 there were six labor camps in Yakutskaya ASSR, with a total of 6000-7000 prisoners.

**Life sentences.** I also want to emphasize the fact that Christian prisoners in Soviet Labor camps are doomed to a life-time sentence. Many of them were not released upon completion of their terms, but faced resentencing: Nikolai Baturin, Yakov Skorniyakov, Aleksei Kozorezov, Rudolf Klassen, Nikolai Boiko, Mikhail Khorev, Ivan Shydich, Aleksei Kalyashin, and others. Now threatened with rearrest are: Dmitri Minyakov, Ivan Antonov, Pyotr Rumachik, Fyodr Makhovitsky, and others. I consider it necessary to report the long term sentencing that is becoming virtually life-sentences for the following men:

|                                 |          |
|---------------------------------|----------|
| Nikolai Baturin, 58, has served | 22 years |
| Ivan Antonov, 66                | 20 years |
| Pyotr Rumachik, 54              | 16 years |
| Nikolai Boiko, 63               | 15 years |
| Yakov Skorniyakov, 57           | 12 years |
| Mikhail Khorev, 54              | 11 years |
| Peter D. Peters, 43             | 11 years |

Chairman D'AMATO. I thank Pastor Vins for his testimony. We would also like to thank you, Mr. Finerty, for the translation. We will have some questions.

We will turn to Mr. Ginzburg. Mr. Ginzburg, thank you for being here today.

#### STATEMENT OF ALEXSANDR GINZBURG

Mr. GINZBURG. Excuse me. My English is maybe, maybe broken, but I will try to speak in English. One of my friends who was in Komsomolsky was exchanged for Chilean Communist leader Corvalan. He was asked how many prisoners were in the Soviet Union and he answered about 250 million and I think just part of this sentence is a joke because Soviet law makes normal human labor slave labor. I have, I think, good experience in Soviet labor camps.

Chairman D'AMATO. Mr. Ginzburg, how long were you in the camp?

Mr. GINZBURG. I was in prisons and in camps 9½ years.

Chairman D'AMATO. Nine and a half years?

Mr. GINZBURG. Yes. I was sentenced.

Chairman D'AMATO. What crime were you charged with?

Mr. GINZBURG. Three times I was charged for so-called anti-Soviet propaganda, the last time for—I was founding member of Helsinki Monitoring Group in the Soviet Union. I had two big interruptions between my sentence, 5 years each, and many times I told my friends about conditions in Soviet camps and each time I begin it was very good, very liberal time, now it is worse. Oh, the first time I was in I worked in the lumber industry in Komi, Autonomous Republic.

The second time I was in Mordovia camp and I worked, I make the furniture for offices and the chest like these. It was, yes, yes, it was first for prisoners to do this. It was work for foreign prisoners in our camp or for handicapped persons and last time I was in smallest camp in Soviet Union because all of us that had a very big group, especially dangerous state criminals, especially dangerous fugitives.

Chairman D'AMATO. Mr. Ginzburg, are you telling this Commission that you were classified as an especially dangerous criminal?

Mr. GINZBURG. Yes, especially dangerous state criminal.

Chairman D'AMATO. Now, let me ask you something. You started to say this. What did they charge you with, what activities did they charge you with?

Mr. GINZBURG. There were two kinds of activities. At first, I was administrator of Solzhenitsyn, founded by Solzhenitsyn—Russian social fund to help political prisoners and their families—and second, I was founding member of Helsinki Monitoring Group.

Chairman D'AMATO. The Helsinki Monitoring Group?

Mr. GINZBURG. Yes.

Chairman D'AMATO. You were a member?

Mr. GINZBURG. Yes and as a result of this I was an especially dangerous criminal.

Chairman D'AMATO. In other words, your advocacy of human rights landed you in prison where you served almost 10 years on three different occasions?

Mr. GINZBURG. Yes.

Chairman D'AMATO. You were branded an especially dangerous criminal?

Mr. GINZBURG. Yes. It's notable for Soviet Union and in their camp we had just 40 people and just one kind of job, polishing glass, components of crystal chandeliers and these components were made on machines made in Germany in the twenties. It was a big cast iron circle, no, not circle, group, circle with this abrasive, with abrasive and we stand around and put this piece of glass to this circle and press, press and around us we had a big cloud of glass dust and we never had dust masks. Our administration proposed to use gasmask about World War II time, but it was impossible to work in a gasmask more than 10 minutes, but you had—we had to do many pieces and normally our working day was 8 hours, but we have to work more because if we did less pieces they can put us in isolation cell and it's out of this world. I was in this camp just 7 months and in this time three of us died, two as a result of silicosis.

Chairman D'AMATO. Silicosis?

Mr. GINZBURG. Yes and one as a result of a stomach ulcer. I saw these pieces of glass, not in the United States, but in France, in an opera house in Paris.

Chairman D'AMATO. In an opera house in Paris?

Mr. GINZBURG. Yes.

Chairman D'AMATO. So, the work that you did in the slave labor camps making this glass—you eventually saw the same work, that work that came from your camp, in an opera house in Paris?

Mr. GINZBURG. Yes, yes.

Chairman D'AMATO. I think at this point, Mr. Ginzburg, I would point out that that is exactly the point that this Senator is attempting to make. If we, the United States of America, do not enforce the law, if we import the products of slave labor, the chess sets that you saw your fellow prisoners manufacturing that you saw here in this country, the little dolls that you saw your fellow inmates working on to come into this country, the tractor parts and other equipment, then how can we expect other nations, other democracies to say, "No, we're not going to take the products of slave labor into our country"? You pointed that out well with the example of the chandelier in the French opera house.

Mr. GINZBURG. Yes.

Chairman D'AMATO. That is, the products that you yourself as a prisoner worked on are imported by Western countries. I daresay this is going on throughout the world and not just in those dictatorships, not just in those Communist nations who are living off the work and the products and the blood of those whose only crime is to seek to practice their religion or to emigrate to keep their customs, but also, what is more damaging, is to have these products find their way into the democracies of the free world. That is a tragedy.

Mr. GINZBURG. Yes, yes, it's tragic, but this set was bought in Washington, DC, in a bookstore for, I think \$100.

Chairman D'AMATO. The set was selling for \$100 in a bookstore in Washington, DC?

Mr. GINZBURG. Yes, yes. Yes, yes and one person in camp have to do about 150 figures like this and work in the day for 90 kopecs. It's less one ruble.

Chairman D'AMATO. You are saying that they would make 150 of these figures a day?

Mr. GINZBURG. Yes, a day for 90 kopecs.

Chairman D'AMATO. Ninety kopecs is less than a ruble?

Mr. GINZBURG. Yes.

Chairman D'AMATO. Which would be? What would the currency of a ruble translate into, Mr. Finerty? What would it be today?

Mr. GINZBURG. \$1.65 kopecs normally.

Mr. FINERTY. It's very difficult. I think it is \$1.28 the last I saw.

Mr. GINZBURG. Yes.

Mr. FINERTY. Ninety kopecs is nothing.

Chairman D'AMATO. Less than \$1?

Mr. GINZBURG. Yes.

Chairman D'AMATO. And they would be forced to make 150 of these figurines a day?

Mr. GINZBURG. Yes, yes.

Chairman D'AMATO. And this set sells for about \$100 in the United States today?

Mr. GINZBURG. Yes, yes, but I think the situation is worse in this bookstore. In this bookstore you can buy the books written by our executioners. I think it's worse.

Chairman D'AMATO. You are saying in the same bookstore that the Soviets——

Mr. GINZBURG. Yes. It's a special bookstore for Soviet books.

Chairman D'AMATO. Well, maybe we will have to visit that bookstore someday.

Mr. GINZBURG. Yes.

Chairman D'AMATO. Well, Mr. Ginzburg?

Mr. GINZBURG. In Washington, DC.

Chairman D'AMATO. You do live in Washington, DC?

Mr. GINZBURG. Yes.

Chairman D'AMATO. Let me ask you, I will ask Pastor Vins and Mr. Ginzburg, do you have any estimate as to how many prisoners in the camps were political prisoners, as opposed to the genuine criminals or persons convicted of petty crimes? How many prisoners were political, what percentage did you find to be basically prisoners who were considered to be dangerous because of their political or religious beliefs?

Pastor VINS. The religious prisoners are generally kept with the criminals themselves. They aren't mixed in with the political prisoners. I don't know anything about the political camps.

Chairman D'AMATO. Well, what about the religious prisoners; how many would the pastor estimate?

Pastor VINS. It is difficult to say because not all of the religious groups keep a count of their prisoners in existence. For instance, the Baptists, the Seven-day Adventists have about 50 people in the camps. I don't really know about the other groups.

Chairman D'AMATO. Mr. Ginzburg.

Mr. GINZBURG. Yes, yes. I have experience in this area. At first I was administrator of the Russian Social Fund and each time we had a prisoner list of about 700, 800 persons, two-thirds we knew

after their release and as a result of this experience I think now we have in Soviet camps about 2,000 political prisoners with real political charges, but for example, suppose somebody tears down a Soviet flag and puts up a flag of his own nationality, I don't know, is it a political crime? I think so, but in Soviet law it is hooliganism.

Chairman D'AMATO. What you are saying is there are thousands of people who are charged with hooliganism and that hooliganism—may constitute putting up the Ukrainian flag?

Mr. GINZBURG. Yes.

Chairman D'AMATO. Putting up the Lithuanian flag?

Mr. GINZBURG. Yes.

Chairman D'AMATO. Singing their customary songs, trying to maintain their culture?

Mr. GINZBURG. Yes.

Chairman D'AMATO. And that Soviet authorities then bring charges of so-called hooliganism against them?

Mr. GINZBURG. Yes, yes and we have thousands of people with these charges.

Chairman D'AMATO. So, therefore, it is rather difficult when we come up with the number of some 10,000 that have been substantiated?

Mr. GINZBURG. Yes.

Chairman D'AMATO. That is why it becomes difficult to really ascertain with precision the difference between those who are, indeed, criminals as they would be adjudged to be in any society as opposed to those who are really, in essence, imprisoned because of their expression of their religious or political views?

Mr. GINZBURG. Yes.

Chairman D'AMATO. I would like to express the Commission's thanks and my appreciation to both Pastor Vins and Mr. Ginzburg for taking their time to be here today. Let me tell you what I and my cochairman, Congressman Hoyer, intend to do.

We intend to more definitely define those products that come from the slave labor system and see to it that the law will be enforced. We want to see to it that we don't continue the sham of turning our heads from the truth, closing our eyes to what is taking place, so we can be truly the leaders of the free world. I believe we must set an example for other nations and other democracies. We must say that we are not going to countenance this. We must not close our eyes to the importation of these goods because we think the economic impact is only \$192 million and after all, enforcing the law might disturb the negotiations that we have with the Soviets in other areas. If the Soviets would be distraught because we say we are going to follow the law of the land and more importantly, I believe God's law, why then so be it, let that be the case. Let us set the example for other nations to follow.

If we find that law too difficult to adhere to, then I think there will be tragic consequences for this Nation. We would deny our very heritage and mock the sacrifices that our forefathers made. Congressman Hoyer and I will be conducting additional hearings to see if we cannot focus the attention of the U.S. Congress and the administration on this issue and to see if we can't get them to take a leadership position. We will bring this issue to the attention of

the American people because I do not believe that they really recognize what is taking place. I believe that they will be outraged, that they will be shocked as the horror stories are unveiled describing the conditions under which prisoners labor in the production of these little dolls. What we might consider to be insignificant is not so insignificant because of its terrible effects upon the lives of the thousands who are in prisons today, working in the manufacture and production of these goods that are sold to an opera house in Paris and to consumers here in this country.

Let me ask you one more question, Mr. Ginzburg. When you saw this, what was it, a crystal chandelier?

Mr. GINZBURG. Yes.

Chairman D'AMATO. In the Paris opera house?

Mr. GINZBURG. Yes.

Chairman D'AMATO. What came to your mind? Were you shocked? What did you think? I am trying to get you to express your view.

Mr. GINZBURG. I thought our guards didn't lie because they said to us at first—

Chairman D'AMATO. The guards?

Mr. GINZBURG. "You are working for the West."

Chairman D'AMATO. You mean the guards actually taunted you?

Mr. GINZBURG. Yes.

Chairman D'AMATO. And they said, "You're producing these things for the West"?

Mr. GINZBURG. Yes.

Chairman D'AMATO. You didn't believe that?

Mr. GINZBURG. No. I didn't believe.

Chairman D'AMATO. What irony when you came to the opera house and you saw the work that you yourself had done as a person, as an individual slave, knowing that your friends died there in the camp—

Mr. GINZBURG. Yes, yes.

Chairman D'AMATO. Were you somewhat bitter?

Mr. GINZBURG. Yes, but it is—

Chairman D'AMATO. Here people—

Mr. GINZBURG. We had many questions to French Government and this question was less important.

Chairman D'AMATO. How ironic, though, as you go into this wonderful setting for the opera—full of all the culture and charm—that there in the midst of this is the product that comes from human misery.

Mr. GINZBURG. Yes, yes.

Chairman D'AMATO. We thank you for your testimony.

Pastor Vins, we thank you for being with us.

Our second panel consists of Richard W. Miller, Associate Commissioner, U.S. Customs Service and J. Robert McBrien, Deputy for Security Affairs and Crises Management, Office of the Assistant Secretary for Enforcement and Operations, Department of the Treasury.

Mr. MILLER. Which of us would you like to go first, Mr. Chairman?

Chairman D'AMATO. Mr. Miller, why don't you start. We thank you, gentlemen, for being here with us today.

## STATEMENT OF RICHARD MILLER, U.S. CUSTOMS SERVICE

Mr. MILLER. Thank you, Senator. If you would permit me just a moment to digress briefly from the subject of the hearing, I would briefly like to address another issue and that is, I would like to thank you on behalf of the Customs Service for your work and leadership in the area of trying to prevent illegal and dangerous drugs from being imported into this country. Those of us in the Customs Service and, I think in all Federal law enforcement, are appreciative of your efforts. Just this week, in fact, on Tuesday, some major arrests were made in New York City, a group of 16 individuals in a significant cocaine importing ring bringing in cocaine to a multi-State area. This ring was broken up and these arrests were made. The individual officers participating in that investigation and in those arrests were largely made up of what we call the Al D'Amato Task Force, a group of agents that you enabled us to bring to New York to work on narcotics and I did want to mention that, Senator.

Chairman D'AMATO. Part of the new complement of 100 additional Customs officers?

Mr. MILLER. That is correct and that is paying off already and with just this case this week, which was a significant case.

With regard to the importation of slave labor goods, as you are aware, this prohibition appears in section 1307 of title 19 of the United States Code. The procedure that the Customs Service must follow in enforcing this law is described in the Customs Regulations (19 CFR 12.42 et seq.) Essentially, those regulations provide that if the Commissioner of Customs receives information which reasonably, but not conclusively, indicates that merchandise made with the use of forced labor is being imported into the United States, then the Commissioner must promptly direct Customs field officials to withhold entry of that merchandise.

Again, as you may know, on September 15, 1983, Senator Armstrong published in the Congressional Record, a letter that he had received from the Director of our Central Intelligence Agency, attached to which was a list of "Soviet industries which utilized forced labor and produced goods for export." The attachment described the list as being "industries and products in which forced labor is being used extensively." Let me review briefly what has happened since then.

Immediately upon this list being called to the Commissioner von Raab's attention, he directed that an order be prepared denying entry of any of the listed goods imported from the Soviet Union. I believe at the time this was approximately 30 some-odd tariff classifications.

Chairman D'AMATO. Yes, 36 items.

Mr. MILLER. Yes, sir.

Chairman D'AMATO. If you want to put it in there.

[See appendix No. 7, page 63 for list.]

Mr. MILLER. Yes, sir. Because of the potential impact of this particular order it was Commissioner von Raab's judgment that he should publish a public notice of this action. Consequently, the Commissioner prepared at notice for publication in the Federal

Register and on September 28, 1983, he submitted that notice to the Treasury Department for approval as he is required to do.

In February 1984, after the Commissioner consulted with Treasury officials on standards to be used in invoking the forced labor law, and after he had an opportunity to review a detailed synopsis of the intelligence on which the CIA letter was based, the Commissioner submitted to Treasury a revised notice with a list of goods which was substantially shortened, including only those goods for which the CIA indicated that it had fairly recent intelligence from reliable sources.

Chairman D'AMATO. Seven items?

Mr. MILLER. That is correct, Senator.

Chairman D'AMATO. And we will enter that into the record, those seven items. That is both the second and final custom recommendation for enforcement of section 307 to the Secretary of the Treasury dated February 1984. We will make that part of the record.

[See appendix No. 8 page 72 for list.]

Mr. MILLER. On February 1, 1984, the International Trade Commission, at the request of the Senate Committee on Finance, began a broad investigation into U.S. imports from all sources of goods made with forced labor and on March 2, the chairman of the committee, Senator Dole, asked the Secretary to defer any action on our preliminary findings until the International Trade Commission could complete its comprehensive review of forced-labor imports generally.

Chairman D'AMATO. Let me state for the record that I find the International Trade Commission and its report to be sadly lacking. They should be taken to the woodshed. I wonder if they are more interested in what the labor practices are in this country? That wasn't their responsibility. It is a sad commentary. I heard them testify in front of Senator Armstrong's subcommittee just several months ago. Maybe they should pay a little visit to the Soviet Union. Continue.

Mr. MILLER. Subsequently, in May 1984, the Central Intelligence Agency informed Treasury that a review had been conducted of the evidence on the production and export of goods manufactured by forced labor and that it had been found to be fragmentary and not very specific. Based upon the CIA's views, and pending a decision on this matter from the ITC, the Secretary at that time postponed a decision on this matter.

On January 17, 1985, the Director of Central Intelligence wrote the Secretary of the Treasury to advise him that despite continued monitoring, the CIA was unable to obtain sufficient facts to make a solid case that any particular goods we receive from the Soviet Union is made with forced labor.

After receiving this advice from the Director of Central Intelligence, and after reviewing the report of the International Trade Commission which provided no additional evidence which might support a decision to prohibit the importation of certain goods from the Soviet Union, the Treasury concluded that we do not currently have adequate evidence to link forced labor operations in the Soviet Union with merchandise which is imported here from the Soviet Union.

That is where matters stand at this moment. The Customs Service remains very concerned about reports coming to us, that this type of forced labor is used in the manufacturing of goods which are imported here from the Soviet Union.

However, in applying the forced labor law against a closed society such as the Soviet Union, we are highly dependent on our intelligence agencies for information which will provide us with a solid basis for acting. If such information is not available, or if our intelligence experts are of an opinion that the information available is not reliable, then we would have a very difficult time acting.

Chairman D'AMATO. Let me say for the record that I do not believe, from my conversations—both officially on the record or those that I have had in the course of investigations—that the Commission staff has made, that Customs is happy with this turn of events. Indeed, if one looks at the record, we see that the Customs Service in 1983, wanted to enforce the law, wanted to prohibit importation of those 36 various products, wood products, et cetera. Seeking enforcement, Customs even shortened the list of products where there has been a substantial body of information developed indicating use of slave labor takes place. The result of their efforts has been that there is a policy that flows from the State Department to keep the law from being implemented.

By the way, I am going to continue and push to challenge that. I think that the nameless, faceless bureaucrats, including the ITC, I think they are absolutely incredible, they ought to be ashamed of themselves. I think they do a terrible job, not only in this area, but on the whole trade question.

I haven't seen an area that has been so infiltrated with political judgments as within that agency. I think they are almost working against American industry. This has nothing to do with this hearing, but as an aside, I would make that comment. Just incredible, that they have loaned themselves to this cabal. It is taking place. Products of slave labor are coming into this country. That is a fact. If we want to deny it, I am not going to be part of that.

I am going to expose it to the best of my ability. I didn't take the chairmanship of the Helsinki Commission to just say that we have people whose rights are being deprived by signatory countries, while we tolerate importation of their slave labor products into this country. Are we to say, "Well, with specificity, we cannot prove that this piece was made in X-camp by those slave laborers." We know how the wood was cut, we know that whole sectors of Soviet industry are absolutely dominated by the work of those who have been imprisoned and who are, indeed, held in bondage in slave labor.

So, let me say that I know that there is a strong body of feelings in the Customs Service, that they would like to enforce the law. There are areas in which there should be determinations made with respect to the adequacy of the proof of slave labor involvement, but the Customs Service is being restrained and I think unrightfully so, from carrying out their responsibilities. I don't want the record to show that I am not mindful that Customs has tried to go forward in this area.

QUESTIONS SUBMITTED TO RICHARD MILLER, U.S. CUSTOMS SERVICE, FOR THE RECORD

*Question 1:* The Customs Service originally submitted a list of approximately three dozen classes of merchandise that were not to be imported by the United States from the Soviet Union. Then, in February 1984, after consultation with both the Treasury Department and the CIA, Customs submitted a much shorter list, supposedly based on more specific information. Did Customs feel it was legally bound to submit a second list after Treasury and CIA consultations? Please explain.

Answer: No, Customs was not legally bound to submit the second list. The second list was submitted following extensive discussions with the Treasury General Counsel on the background of the law, and following a review of information provided by the Central Intelligence Agency (CIA) which described the sources of intelligence concerning use of forced labor. As a result of these discussions and reviews, it seemed that the evidence was much better with respect to some products than others that prohibited labor was being used and that the goods were being imported into the United States. Consequently, we submitted the second list to Treasury because it was believe to be based on clearly better evidence.

*Question 2:* Did the CIA provide the customs service with the detailed information it had available so that Customs could make a determination, as it is supposed to do, or did the CIA assess its own intelligence and then make its own determination that the information it had was not sufficient to invoke a ban on Soviet products?

Answer 2: The CIA did not turn over to us raw field reports or transcripts of interviews and we have not sought them. However, the CIA did summarize for each product on which they had inculpatory information the dates on which that information had been received and the types of sources they had for the information. Obviously, the CIA is in the best position to know the reliability of those sources, and we have depended on them for their judgment as to that. However, once information is given to us by the CIA which they advise is reliable, the decision as to the materiality and sufficiency of the information to support invocation of the forced labor law is made by the Commissioner of Customs.

*Question 3:* Was not the CIA making its own determination, which it legally does not have the authority to do, when Director Casey said in his letter to Treasury Secretary Regan on May 16, 1984, that "the Agency's information, while convincing as to the policy and practices of the Soviet Union with respect to forced labor, could not now be provided with sufficient precision to have probative value in a legal proceeding with respect to a particular product"? Does the CIA have the same legal expertise as Customs or the legal right to make this determination?

Answer 3: To the extent that the CIA letter goes beyond discussion of the reliability of their intelligence information and appears to comment on the materiality and sufficiency of the information to support invocation of the forced labor law, then they are offering Customs some free advice, the sort of thing we get all the time. That advice does not prevent the Commissioner from making an independent determination.

*Question 4:* Didn't the CIA inform Customs of the limitations on the information available concerning Soviet forced labor, as it did to Treasury in May 1984, and, if so, did you feel that the CIA qualifications were incorrect since you went ahead with a second recommendation? Why do you think the CIA subsequently qualified the information it had given Customs in September 1983?

Answer 4: The CIA did not advise Customs of the reservations they had about the information they had provided until May of 1984. Although we are not aware of the reasons why the CIA waited until May 1984 to express these reservations, it is likely that they had simply not had an opportunity to examine in depth the sources and recency of their reports.

*Question 5:* Assuming that the Customs determination of February 1985 had been approved by the Treasury Secretary, do you believe that anybody would have challenged the action? If the action were challenged, given the wide discretionary authority given to Treasury and Customs in this law, do you believe that it would be difficult to uphold the ban in court?

Answer 5: It is difficult to speculate about the likelihood of litigation had the Customs determination of February 1984 been enforced. Because the list of products affected was fairly limited, and because the one type of product in which there has been a significant volume of trade, petroleum products, now seems to be in abundant supply, it is probable that there would have been no litigation. However, we are satisfied that, had the CIA affirmed that their information was reliable, our determination to invoke the forced labor law could have withstood legal challenge.

*Question 6:* On what basis could a legal challenge to a specific ban be initiated? Given the wide discretion given to Customs and Treasury as to whether sufficient

evidence exists to warrant prohibiting certain goods from entering the country, isn't it true that the action would have to be considered arbitrary or capricious in order to be successfully challenged?

Answer 6: It is our belief that a successful legal challenge to an invocation of the forced labor law would require a showing that the Commissioner acted arbitrarily and capriciously, and in disregard of the facts. That is why the CIA announcement that information they had made available to us was unreliable resulted in the decision not to proceed with invocation of sanctions.

Question 7: In order to enforce this law, does Customs need to prove that any specific item being imported was actually made utilizing forced labor, or does customs merely need evidence that classes of merchandise are made utilizing forced labor and that we are importing, or are likely to import, items belonging to those classes. Are you not obligated simply to use the narrowest classification that you can reasonably establish? Isn't it true that the burden of proof would then be on the importer, not on Treasury and Customs?

Answer 7: It is our view that the law does not require a finding that a particular item of merchandise imported into the United States is made with forced labor, but rather that goods of a class or kind identical or very similar are made with forced labor. It is our policy to apply sanctions under the forced labor law to the narrowest class of merchandise that can be conveniently identified, so that innocent importers are not injured. Once Customs has determined that a particular, narrow class of goods is made with forced labor, then importation of those goods will be prohibited and the burden will be on each importer to show that goods he imports are not a part of that class or are not made with forced labor.

Chairman D'AMATO. Mr. McBrien.

#### STATEMENT OF J. ROBERT MCBRIEN, DEPARTMENT OF THE TREASURY

Mr. MCBRIEN. Thank you, Mr. Chairman. I would just like to initially digress, also, and endorse the comments of Commissioner Miller about the magnificent support you have been giving to Federal law enforcement efforts against drugs, especially with the Customs Service, and I am very glad to hear of the current success that Customs is having in this area. I know John Walker, who is my Assistant Secretary, would feel very strongly about that.

Chairman D'AMATO. Thank you, Mr. McBrien.

Mr. MCBRIEN. Mr. Chairman, I have a prepared statement. Some parts of it are somewhat repetitious of what Mr. Miller has already said. If you care, I can abbreviate it somewhat.

Chairman D'AMATO. Why don't we do two things: For the record, we will accept your testimony as if read in its entirety and then you might want to complement those things that Mr. Miller has testified to so that they are not repetitious.

Mr. MCBRIEN. Thank you, sir. When Mr. Miller began his testimony, he pointed out that Commissioner von Raab had originally proposed in September 1983 acting against 36 categories of products imported from the Soviet Union and that he moved his proposal on to the Treasury Department where he had to have approval for an action of that sort. I think it is important to note here—because this has become an issue and it is also important to understand what has been done—that the statutory authority resides in the Secretary of the Treasury, who has delegated the operational responsibility to the Commissioner of Customs.

When the Commissioner took that action and proposed it to the Treasury Department, it telescoped all the procedures into one package where the decision, in essence, became one to be made by the Secretary of the Treasury. So at that point in some respects, the Commissioner was relieved of having to make another determi-

nation; and there was not a two-step determination of preliminary and final any longer. We developed a one-process system at that point.

After those views were presented to the Treasury, the Treasury, of course, began an examination of the legislative history of the statute and of the regulations and of the past practices in its enforcement. We didn't find a record that was terribly satisfactory in terms of consistency or frequency of use. From that resulted the attempt by Treasury, working with Customs, to develop guidelines to help implement the law and to help understand the evidence that we would need in the context of enforcing the law.

Concurrent with the development of those guidelines, we requested the Central Intelligence Agency to conduct a more intensive examination of the factual basis which would support the statute's enforcement. That, of course, is because much of the information upon which the original action relied was drawn from a public report of the Central Intelligence Agency; and we thought that we needed more specificity as to what the actual intelligence was in those cases.

In May 1984, as Mr. Miller said, Secretary Regan found, based upon an opinion that the Director of Central Intelligence conveyed to him at that time, that the evidence he had then was insufficient to make a final determination. He also at that time was aware that the International Trade Commission had been asked by Senator Dole to look into the problem, so he deferred any decision until the ITC had completed its study.

[Mr. McBrien's written statement follows:]

Enforcement of Prohibitions Against the Importation  
of Goods Produced Through Forced Labor

Mr. Chairman, Members of the Commission:

I appreciate the opportunity to appear before you today to participate in the discussion of the enforcement of the United States statute prohibiting the importation of goods produced with the use of forced labor. The issue of the importation of goods produced by Soviet forced labor first came to the Treasury Department's attention in September, 1983, when Commissioner von Raab of the Customs Service submitted for Treasury review his intended finding that products from the Soviet slave labor system--that is, goods produced with the use of forced, convict or indentured labor--are actually being, or are likely to be, imported into the United States.

I should note here that the procedural effect of the Commissioner's action was to telescope a two-step process into a single step in which the Secretary of the Treasury would determine the sufficiency of the evidence that might warrant a prohibition under section 307 of the Tariff Act.

Shortly after the Commissioner's views were presented to Treasury, we began an examination of the legislative history of the statute, section 307 of the Tariff Act of 1930, and the past practice in enforcing the statute. From that review, we concluded that past enforcement actions--and instances when enforcement was considered but not executed--had been infrequent and inconsistent.

Consequently, Treasury began a number of actions that were intended to ensure that the law would be enforced in an even-handed manner, on the basis of well-reasoned standards and with adequate factual support. To that end, legal guidelines were developed that Treasury can apply consistently in all cases that may arise under the statute. Concurrent with the development of those guidelines, the Central Intelligence Agency, at our request, conducted a more intensive examination of the factual basis which would support enforcement of the statute.

In May, 1984, Secretary Regan found that the evidence then available to him did not support a determination that specific goods were produced with forced labor. He therefore declined to make a final determination with respect to the Commissioner's recommendation until after completion of the inquiry by the International Trade Commission into forced labor practices. It was our hope that the ITC's inquiry might provide additional information which would contribute to Treasury's making a final determination, based on fact.

The International Trade Commission report, "International Practices and Agreements Concerning Compulsory Labor and U.S. Imports of Goods Manufactured by Convict, Forced or Indentured Labor," was released on December 18, 1984. Treasury reviewed that report thoroughly, and found that it contributed no additional probative information on the question of whether specific Soviet-made goods are being imported into the United States in violation of 19 U.S.C. 1307.

In fact, the report discredits the already meager evidence about two of the products identified in the final recommendation of Commissioner von Raab. I should also note that the ITC expressly cautioned that its report is not intended for use as evidence in any administrative proceeding.

In addition, Treasury requested the Central Intelligence Agency to evaluate any information which may have become available subsequent to Director Casey's May 16, 1984, letter to Secretary Regan on goods produced with forced labor in the Soviet Union. Director Casey responded to that request in a letter dated January 17, 1985. In that letter, Director Casey confirmed that the CIA has continued to monitor information on Soviet forced labor practices and that it still is not able to make a "solid case" that any specific forced labor goods are imported into the United States.

Based upon the May 16, 1984, and January 17, 1985, letters of Director Casey and upon the failure of the ITC report to offer additional probative evidence, then-Secretary of the Treasury Donald T. Regan determined that the available evidence provided no reasonable basis in fact to establish a nexus between Soviet forced labor practices and specific imports from the Soviet Union and, therefore, that there was no basis upon which to prohibit or withhold from importation into the United States any goods produced within the Soviet Union. Consequently, by memorandum of January 28, 1985, Secretary Regan informed Commissioner von Raab that his recommendation for import prohibitions under section 307 was not adopted.

You are probably aware, Mr. Chairman, that during that time, the Washington Legal Foundation along with members of Congress and other plaintiffs, first petitioned the Customs Service to act against several categories of Soviet goods imported into the United States and later filed suit against Treasury in the Court of International Trade for failure to prohibit the entry of some Soviet products.

On July 23, 1985, in a 33 page opinion, the Court of International Trade dismissed the suit. The Court held that:

"...all plaintiffs lack standing except Congressional plaintiffs in their personal capacity as workers and producers in industries competing with Soviet forced labor goods; these allegations of Congressional plaintiffs would require further particularization; and that the Court does not require further particularization since the [Treasury] Secretary's January 1985 determination renders the Commissioner's finding moot."

Mr. Chairman, the Department of the Treasury shares in your condemnation of the use of forced labor by the Soviet Union. It is a repugnant violation of human rights and is inconsistent with all that the United States stands for. However, that does not permit the Treasury Department to take enforcement actions that have no basis in fact.

If Treasury had found clear, substantive evidence that specific products of slave labor are actually being imported into the United States, we would have had a sound legal basis for enforcing import prohibitions against Soviet products. However, that has not been the case here. This was simply a situation in which we did not have sufficient evidence that the United States is importing the products of slave labor.

In the future, if sufficient, credible evidence were to be developed concerning the importation of specific types of slave labor products from the Soviet Union, the Treasury Department would enforce the law and prohibit their entry.

That concludes my statement, Mr. Chairman. I would be pleased to respond to questions.

Chairman D'AMATO. Who appoints the ITC; International Trade Commission?

Mr. MCBRIEN. Pardon me, sir?

Chairman D'AMATO. Is that a Presidential appointment?

Mr. MCBRIEN. Yes, sir.

Chairman D'AMATO. Do you know how they come about?

Mr. MCBRIEN. No, I do not.

Chairman D'AMATO. That is fine. Thank you.

Mr. MCBRIEN. The International Trade Commission issued its report in December 1984. We reviewed that report thoroughly and found that it contributed no additional information on that question of what specific goods are imported into the United States from the Soviet Union that are the result of slave labor.

Chairman D'AMATO. It really questioned what we do in our own prisons, didn't it?

Mr. MCBRIEN. Yes, it did.

Chairman D'AMATO. It seems to me that they started out with a predetermination to find out ways in which they could dissuade Customs and others from even looking into this issue. That is my own observation.

Mr. MCBRIEN. The report went on, Senator, and it actually looked at prison activities in a number of countries, including Western countries. I think part of that may be because the statute does apply to traditional prison labor as understood from the Western perspective as well as to the more onerous forms of slave labor and indentured labor.

Chairman D'AMATO. Let me suggest to you that this Senator feels that that was an obvious move to obfuscate the question and the question as to whether or not the goods, et cetera, that were coming in from the Soviet Union were the product of slave labor and so what they did was undertake this entire review, raised additional questions that went beyond. It certainly didn't go to the area of defining categories and classes and how we will make a determination with respect to whether goods produced and coming into this country are the work product of those who are enslaved. I've heard the same people testify and this is, again, I intend to pursue it and I would like to bring before the Commission, before this Commission, those people in the ITC who are responsible for those reports.

Mr. MCBRIEN. I appreciate your views, Senator. Obviously, I am not the person to comment directly upon those.

Chairman D'AMATO. Oh, I am not asking you to do that. That is a political hotbed and my statement is a highly charged one and I recognize that and I mean it to be provocative.

Mr. MCBRIEN. Senator, following the International Trade Commission Report, we again requested that the Central Intelligence Agency evaluate its information and in particular, look for any additional information that may have become available since it originally provided a report to us. The CIA had given as its report in the previous year, 1983, and had provided their assessment of that a few months afterwards, in May 1984.

In January 1985 Director Casey responded to our request with another letter. In that letter he confirmed that the CIA has continued to monitor information on Soviet forced labor practices and

that it still was not able to make a solid case that any specific forced labor goods are imported into the United States. On January 28, based upon both the May 1984 and January 1985 letters from the Central Intelligence Agency and upon the failure of the ITC report to offer additional probative evidence, then Secretary of the Treasurer Donald Regan determined that in his judgment, the available evidence provided no reasonable basis in fact to establish a nexus between Soviet forced labor practices and specific imports from the Soviet Union; and, therefore, he found that there was no basis upon which to prohibit or withhold from importation into the United States any goods produced within the Soviet Union. He passed that information and his findings on to Commissioner von Raab on January 28.

Now, Mr. Chairman, you are also probably aware that during the time that all of this was under consideration, the Washington Legal Foundation, which is represented today by Mr. Popeo, along with a large number of Members of Congress and other plaintiffs first petitioned the Customs Service to act against several categories of Soviet goods and then later filed suit against Treasury in the Court of International Trade for failure to prohibit the entry of some of those products. On July 23, in a 33-page opinion, the Court of International Trade dismissed the suit; and the Court held that all plaintiffs lack standing except congressional plaintiffs in their personal capacity as workers and producers in industries competing with Soviet forced labor goods.

Chairman D'AMATO. Really? Well, Mr. Popeo can testify to that.

Mr. MCBRIEN. Right, and the Court also found that:

These allegations of congressional plaintiffs would require further particularization; and that the Court does not require further particularization since the Treasury Secretary's January 1985 determination renders the Commissioner's finding moot.

That is, the litigation concluded the challenge to the status of the decision that had been made, and it has terminated legal proceedings in that Court at this time.

Mr. Chairman, I think I would be remiss if I were not to say that the Secretary of the Treasury, James Baker, and former Secretary Regan share in the condemnation along with you, the Helsinki Commission, other Members of Congress and others, on the use of forced labor by the Soviet Union. It is a repugnant practice. It is a violation of human rights, and it is clearly inconsistent with all that the United States stands for. However, the judgment that was made in this case was that that does not, notwithstanding the wrongfulness or the immorality of it, permit Treasury to take enforcement action where we do not feel that we have a sufficient present basis in fact.

If Treasury had determined at the time that it had found clear substantive evidence that specific products of slave labor—

Chairman D'AMATO. Well, that is the question, Mr. McBrien: Do we have to ascertain that specific products or just a class of products comes about as a result of slave labor? If, for example, the lumber operation, the harvesting or other essential activities that must come about before this little chess set and you have heard people testify today that they worked on just this, but if you didn't even have that testimony, which we do have, and if you could dem-

onstrate that substantial elements of activity involve slave labor in the wood products area, is it necessary then with specificity to go further in banning wood products, cabinets, rulers, et cetera, that come into this country and say, "Well, that cabinet itself specifically was the subject of slave labor."

Would it be necessary, for example, to demonstrate that this little generator itself or if you have a whole area of agricultural/industrial products and you know that they are substantial areas where slave labor is involved. So, the question comes down to if we want to make it literally impossible for the law to be operative, then we holdout and say, "Well, we want the specific product. You must go by specific product."

If, on the other hand, we interpret the law to say all we need to demonstrate is a class, in other words, the forestry area and then any wood products that come in, I believe we would have a far different decision on that.

I also have to suggest to you that it is this Senator's belief that the interpretation is coming about as a result of political expedience and I am not looking for you to respond, but that is my basis. The State Department has had meetings on this, we know they have on this subject area. Why, I don't know. They shouldn't be involved in this. They shouldn't be involved in terms of what this will do, et cetera, the implementation of the law as it relates to adhering to the law. They have no business in there whatsoever.

Well, we know that they have had meetings, but they have had those meetings with the CIA, with the Treasury officials, with the National Security people and I would suggest that those meetings were specifically for the purposes of discouraging the adherence to the law.

Mr. MCBRIEN. Senator, I won't try to respond to all of that.

Chairman D'AMATO. No, I did not raise it for you to respond to.

Mr. MCBRIEN. But if I might comment, the Department of State and the National Security Council staff, the Department of Agriculture, the Department of Commerce, and other agencies—notwithstanding the fact that we have a statute under which we have to make a judgment about "do we have sufficient evidence to enforce"—I think that all of them have expressed an interest in what is going to happen under that statute. Even if they are expressing concern for what the impact might be or if they are saying, "We should do it," they obviously are going to have an interest in what is going to happen because it is going to affect subject matter with which they deal. Clearly, there is some foreign relations impact.

Whether it is *de minimis* (in the favorite words of our legal guidelines under the statute); that is, it has a *de minimis* effect upon foreign relations or whether it has a monumental effect on foreign relations, the State Department is going to want to understand that. I don't think there is any question but that the State Department focuses more attention on what happens between the United States and the Soviet Union in foreign relations than in almost any other area.

In terms of the way the Treasury Department treats the statute—how much breadth do we get, do we enforce it against a category versus do we have specificity to the point where we have reduced it to the absurd—I think we will come out somewhere about

in the middle. We come out in the middle because this is basically a trade statute developed, despite the fact that there are moral underpinnings for it, as a protectionist statute for American labor. Now, that places it into the category of laws that normally have certain standards that have been developed over time. Those are the kinds of standards that we have in the legal guidelines that we have developed. Thus you come into the questions that are standard in other trade cases and have been used before the Court of International Trade.

We have three de minimis rules in the guidelines. One is a content rule and the law says merchandise is only excludable if it contains wholly or in part, components made with prohibited labor and this leads into what the standard interpretations are under the international law of trade as to what is a part and what is not a part. So, we have a de minimis content rule that affects how wide a category you use for determining what constitutes other slave labor products. We also have, again, something that is drawn from general trade law, the de minimis price advantage rule. Now, with respect to a closed economic system that rule has no bearing, so I won't go into it here. But there is that rule here that would apply in an open economy and that, at some point, would prohibit compulsory labor practices. And there is a third that I would call the overbreadth rule or the de minimis class rule and that is the one that you really have raised here. At what point do we draw the class too broadly to be reasonable under the guidelines that have been provided? That is a case-by-case determination; and, of course, it is clearly affected by how much information we can or cannot get from the kind of economy we are dealing with.

Our judgment in the Treasury at the time is that, based upon the information we had seen up to that point, the best source we have of reliable—currently reliable—information about Soviet forced labor practices and of what resulted in an export to the United States came from the Central Intelligence Agency. We have reviewed that information; and, certainly, reasonable men can differ over how adequate it was from our perspective. The producers of the information, however, evaluated it from their standpoint as being highly inadequate and as not confirming that we were importing what was produced by forced labor. We deferred to that judgment; that is the Secretary of the Treasury at the time did.

Chairman D'AMATO. Let me suggest to you that with respect to the classifications of the provision and as it relates to whether or not we have to be specific or whether we can take categories, that is not a determination that should be made by the CIA and they made that determination and that is a copout. That is a determination that can and should be made by Treasury and/or Customs, but not the CIA.

I am just suggesting to you that you said reasonable people have a difference and maybe it will take Congress probing this question for further legal action, but let me say that we are appreciative that you came to this hearing and that you added a dimension in terms of the historical perspective in terms of raising this question and I commend those who at least raise the issue. I think now that the issue has been raised I want to see you pursue it. I want to see us implement the law. I am tired of hearing us saying we don't

have enough information and, therefore, we're going to make a presumption that this didn't come from slave labor. That is what we are doing and I think the presumption can and should be made the other way, but again, I am appreciative of your testimony and participation.

I would like to hold the record open, as I have indicated before to others, for the purpose of submitting some written questions to you and if you would respond as quickly as you could, if you would respond we would be deeply appreciative and please give my thanks to the Secretary, the appreciation that you have been with us today and please give my thanks to the Commissioner and keep doing the good job that you are doing, particularly in the area of the drug interdiction efforts, because I don't think there is an area that is more important and a challenge that is more difficult than the problem of drug abuse in this country and as you know, so much of the drugs that come from abroad, your department's activities have certainly, I think, been an inspiration for many of the local enforcement officers. You have the thanks of this Commission and of the Senate. Thank you very much.

Mr. MILLER. Thank you, again, Senator. If I could just add once more that when you are in a difficult job trying to address a narcotics problem, people sometimes come up to you and say: "You know, you can't win this. You're fighting an uphill battle," but I know that our officers and our agents on the line who have had an opportunity to hear you speak about this problem are tremendously encouraged by your leadership and the leadership you have helped marshal with your colleagues to keep the resolve strong and firm and to make sure we have the support and the resources we need to do the job, and again, I want to thank you for that.

Chairman D'AMATO. Thank you very much. We are going to ask our last panelist, Mr. Popeo, who is the founder and general counsel of the Washington Legal Foundation to come forward and also Robert Blaney, who is the district administrative assistant for Congressman Kemp. We know that Mr. Blaney has a statement on behalf of Congressman Kemp, who couldn't be with us today, but who is also a member of the Commission on Security and Cooperation in Europe. Mr. Blaney.

Mr. BLANEY. Thank you, Mr. Chairman, members of the Commission, and ladies and gentlemen.

August 1, 1985, marked the 10th anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe. The event was commemorated in Helsinki by a meeting of the foreign ministers of the 35 signatory states, including Secretary of State Shultz and Soviet Foreign Minister Shevernadze. A review of the Soviet record of compliance clearly shows that the results are nowhere near what we had envisioned; there is a vast chasm between the noble words of the Helsinki Final Act and the harsh reality.

In the Soviet Union, the members of the self-appointed Helsinki monitoring groups were persecuted, jailed, or driven to suicide until the group collapsed. Among those jailed was Aleksandre Ginzburg, who became a victim of the forced labor system. We are honored to have him here today as a witness.

The forced labor in the Soviet Union is provided by prisoners, many of whom are political prisoners and prisoners of conscience. These individuals are given inadequate shelter, food, clothing or other protection against the harsh Soviet weather. They are isolated from the rest of the Soviet population. When production quotas are established and cannot be met by people working of their own free will, forced labor is used. This is in direct violation of international agreements, including the Helsinki Final Act and an affront to human decency.

I speak for Congressman Kemp and I'm sure I speak for all of us when I thank Chairman D'Amato for his leadership of the Helsinki Commission. It is thanks to the Senator's efforts that so many important witnesses have come to Buffalo today to testify and focus attention on the issue of forced labor and human rights violations. As a member serving on the Helsinki Commission, Congressman Kemp will be proud to continue to work with the Senator to resolve these problems which affect us as citizens of a free country and decent human beings.

Thank you, Mr. Chairman.

Chairman D'AMATO. Thank you very much and please convey my thanks for Congressman Kemp's strong support and his work on the Commission.

Mr. BLANEY. Thank you.

Chairman D'AMATO. Mr. Popeo.

#### STATEMENT OF DANIEL POPEO, WASHINGTON LEGAL FOUNDATION

Mr. POPEO. At this point, Senator, I would ask that my formal statement be incorporated in the record. I would like to make a brief statement and then answer any questions you have.

[Mr. Popeo's written statement follows:]

TESTIMONY OF  
DANIEL J. POPEO  
GENERAL COUNSEL  
OF THE  
WASHINGTON LEGAL FOUNDATION  
BEFORE THE  
U.S. COMMISSION ON SECURITY  
AND COOPERATION IN EUROPE  
ON SOVIET SLAVE LABOR PRACTICES

SENATOR ALFONSE M. D'AMATO  
CHAIRMAN

AUGUST 15, 1985  
BUFFALO, NEW YORK

GOOD MORNING MR. CHAIRMAN. MY NAME IS DANIEL J. POPEO OF UTICA, NEW YORK AND GENERAL COUNSEL OF THE WASHINGTON LEGAL FOUNDATION. I APPRECIATE THE OPPORTUNITY TO BE HERE TODAY TO TESTIFY ON THIS IMPORTANT TOPIC. I ALSO WANT TO COMMEND YOU FOR THE LEADERSHIP ROLE YOU HAVE TAKEN TO BRING THIS MATTER BEFORE YOUR COMMITTEE AND THE AMERICAN PUBLIC. YOUR EFFORTS ARE VERY MUCH APPRECIATED AND NECESSARY AT THIS TIME. WHILE THE MEDIA AND POLITICIANS ARE FOCUSING ON WHAT SANCTIONS TO IMPOSE AGAINST SOUTH AFRICA, THEY ARE TURNING A DEAF EAR TO THE FAR GREATER PROBLEM OF HUMAN RIGHTS ABUSES IN THE SOVIET UNION AND THE FAILURE BY OUR GOVERNMENT TO ENFORCE THE LAW THAT IS CURRENTLY ON THE BOOKS BANNING THE IMPORTATION OF SLAVE MADE GOODS FROM THE SOVIET UNION.

THE WASHINGTON LEGAL FOUNDATION IS A NONPROFIT PUBLIC INTEREST LEGAL FIRM WITH OVER 200,000 MEMBERS AND SUPPORTERS NATIONWIDE. WE HAVE WORKED VERY CLOSELY WITH MEMBERS OF CONGRESS AND YOUR COMMITTEE OVER THE LAST TWO YEARS ON THIS CRUCIAL ISSUE. CURRENTLY, WE ARE REPRESENTING 35 SENATORS AND CONGRESSMEN, THE INTERNATIONAL LONGSHOREMEN ASSOCIATION, THE UNION MUTUAL FOUNDATION, AND THE UKRAINIAN CONGRESS COMMITTEE OF AMERICA IN A LAWSUIT AGAINST THE TREASURY DEPARTMENT SEEKING AN ORDER FROM THE COURT TO REQUIRE THE AGENCY TO ENFORCE SECTION 307 OF THE SMOOT-HAWLEY ACT WHICH BANS THE IMPORTATION OF ANY GOOD MADE IN WHOLE OR IN PART BY FORCED, CONVICT, OR INDENTURED LABOR. UNFORTUNATELY, JUDGE DICARLO OF THE U.S. COURT OF INTERNATIONAL

WASHINGTON LEGAL FOUNDATION

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202-467-0940

TRADE RECENTLY DISMISSED OUR CASE ON TECHNICAL GROUNDS CLAIMING THAT WE LACKED STANDING TO BRING THE CASE. HOWEVER, WE FULLY INTEND TO APPEAL THAT DECISION TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT, AND TO THE SUPREME COURT IF NECESSARY.

LAST MONTH, WE TESTIFIED ON THIS ISSUE BEFORE SENATOR DANFORTH'S SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE SENATE FINANCE COMMITTEE AS DID YOU, MR. CHAIRMAN. WE AGREE WITH YOUR ASSESSMENT THAT COMMISSIONER WILLIAM VAN RAAB HAS BEEN SINCERE IN HIS EFFORTS TO ENFORCE THE LAW BUT THAT HE HAS MET POLITICAL RESISTANCE FROM THE STATE DEPARTMENT AND OTHER OFFICIALS.

THIS MORNING I WOULD LIKE TO FOCUS BRIEFLY ON THE SOVIET SLAVE LABOR PROBLEM AND THE LEGAL ISSUES IN THIS CASE.

THE STATE DEPARTMENT HAS ESTIMATED THAT THERE ARE OVER 4 MILLION SOVIET CITIZENS IN 1,100 SLAVE OR GULAG CAMPS ACROSS THE SOVIET UNION AND IN THE BALTIC STATES OF LATVIA, ESTONIA, AND LITHUANIA. JUST TO GIVE YOU AN IDEA OF THE MAGNITUDE OF THE NUMBER, THE UNITED STATES HAS APPROXIMATELY ONLY 400,000 CRIMINALS IN ALL OF ITS STATE AND FEDERAL PRISONS OR ONE-TENTH THE PRISON POPULATION OF THE SOVIET UNION. HOWEVER, THERE CAN NEVER BE ANY REAL COMPARISON BETWEEN THE UNITED STATES PRISONERS AND THOSE IN THE SOVIET UNION. FOR MANY OF THOSE IN THE SLAVE CAMPS IN THE

SOVIET UNION ARE THERE BECAUSE OF THEIR RELIGIOUS OR POLITICAL BELIEFS AND ARE DENIED DUE PROCESS. NOR CAN THERE BE ANY COMPARISON BETWEEN THE U.S. AND SOVIET UNION REGARDING PRISON CONDITIONS. WE HEAR SO MUCH TODAY FROM GROUPS LIKE THE ACLU COMPLAINING ABOUT PRISON CONDITIONS IN THE U.S. THIS COMMITTEE AND YOU, MR. CHAIRMAN, ARE WELL AWARE OF THE DEPLORABLE PRISON CONDITIONS IN THE SOVIET UNION. IT IS AN UNDERSTATEMENT TO CALL THEM INHUMAN. I WOULD DARE SAY THAT LIFE ON DEATH ROW IN ANY U.S. PRISON WOULD SEEM LIKE PARADISE TO THOSE UNFORTUNATE MEN, WOMEN AND EVEN CHILDREN WHO ARE FORCED TO WORK IN SOVIET LABOR CAMPS UNDER BRUTAL CONDITIONS.

IN SHORT, MR. CHAIRMAN, IT IS CLEAR THAT THE HUMAN RIGHTS VIOLATIONS BY THE SOVIET UNION ARE WIDESPREAD. IT IS ALSO CLEAR THAT THE SOVIET UNION IS IN BLATANT VIOLATION OF THE ANTI-SLAVERY CONVENTION OF 1926, THE INTERNATIONAL LABOR ORGANIZATION CONVENTION AND, OF COURSE, THE HELSINKI ACCORDS.

WHAT MAKES MATTERS WORSE, MR. CHAIRMAN, IS THAT YOU AND I AND EVERY OTHER AMERICAN CONSUMER ARE FORCED TO SUBSIDIZE THE SOVIETS' HUMAN RIGHTS VIOLATIONS BY BUYING PRODUCTS MADE BY THE SLAVE LABOR. IT IS ESTIMATED THAT THE U.S. IMPORTS ABOUT \$227 MILLION ANNUALLY WORTH OF GOODS FROM THE SOVIET UNION MADE BY SLAVE LABOR. THE NATURE OF THESE GOODS ARE IN THE FORM OF UNFINISHED MATERIALS AND PRODUCTS SUCH AS PLYWOOD OR TRACTOR PARTS.

ACCORDINGLY, THEIR IMPORTATION IS ALL THE MORE SINISTER IN THAT, ALTHOUGH THESE GOODS COULD EASILY BE SEIZED AT THE U.S. PORTS, ONCE THEY FIND THEIR WAY INTO THE MARKETPLACE AND ARE MADE INTO FINISHED PRODUCTS, THEY CANNOT BE TRACED. CONSEQUENTLY, THERE IS NO WAY THAT THE AMERICAN CONSUMER CAN BOYCOTT THESE GOODS SINCE THEY ARE UNIDENTIFIABLE AS TO THE COUNTRY OF ORIGIN. THUS, WHILE THE AMERICAN PUBLIC CAN EASILY BOYCOTT THE SALE OF SOUTH AFRICAN KRUGGERANDS, THE ILLEGAL IMPORTATION OF GOLD ORE FROM THE SOVIET UNION CONTINUES TO FIND ITS WAY INTO THE UNSUSPECTING U.S. MARKETPLACE. IF TREASURY REFUSES TO ENFORCE THIS LAW, PERHAPS WE COULD HELP THE U.S. CONSUMER BOYCOTT THESE GOODS WITH A NEW LAW REQUIRING THAT ALL FINISHED GOODS THAT CONTAIN ANY COMPONENT OR PART MADE IN THE SOVIET UNION BE CLEARLY IDENTIFIED AS SUCH.

THIS COMMITTEE SHOULD ALSO BE AWARE OF THE DIFFICULTY WE HAVE EXPERIENCED IN GETTING SECTION 307 ENFORCED. OUR TESTIMONY LAST MONTH BEFORE THE SENATE SUBCOMMITTEE ON INTERNATIONAL TRADE FOCUSED ON THAT ISSUE AND I WOULD BE GLAD TO SUBMIT TO YOU A COPY OF THAT TESTIMONY FOR THE RECORD. BUT I WOULD LIKE TO SUBMIT TO YOU NOW FOUR DOCUMENTS THAT ILLUSTRATE THE UNWILLINGNESS TO ENFORCE THE LAW BANNING SOVIET SLAVE LABOR PRODUCTS. ALTHOUGH COMMISSIONER VON RAAB MADE HIS FINDING IN SEPTEMBER 1983 THAT SOME 36 PRODUCTS ARE MADE BY SOVIET SLAVE LABOR AND NOT IMPORTABLE, THE TREASURY DEPARTMENT REFUSED IN 1984 AND CONTINUES TO REFUSE TO CARRY OUT THE LAW ON THE FLIMSY BASIS THAT THE EVIDENCE WAS INSUFFICIENT.

UNDER THE FREEDOM OF INFORMATION ACT AND FROM DOCUMENTS WE OBTAINED IN OUR LAWSUIT, WE HAVE A MAY 16, 1984 MEMORANDUM FROM J. ROBERT MCBRIEN, THE DEPUTY SECRETARY FOR CRISIS MANAGEMENT OF THE DEPARTMENT OF TREASURY, WARNING JOHN WALKER, THEN ASSISTANT SECRETARY FOR ENFORCEMENT THAT OUR PETITION FROM CONGRESSMAN LIVINGSTON AND THE WASHINGTON LEGAL FOUNDATION SEEKING A BAN ON SLAVE MADE GOODS WAS ABOUT TO BE FILED WITH THE TREASURY DEPARTMENT. WE THEN HAVE A COMPLETELY UNSOLICITED LETTER DATED THE VERY SAME DAY--MAY 16, 1984--FROM BILL CASEY OF THE CIA TO DON REGAN SAYING THAT HE NOW THINKS THAT THEY DO NOT HAVE A SOLID CASE ON THESE SLAVE LABOR GOODS. ON MAY 16, AGAIN THE VERY SAME DAY, WE HAVE A LETTER FROM DON REGAN TO VON RAAB SAYING THAT HE HAS LOOKED OVER WHAT BILL CASEY JUST HAPPENED TO SEND OVER TO HIS OFFICE TODAY, AND THAT CUSTOMS SHOULD NOT STOP THE IMPORTATION OF ANY OF THESE GOODS. AND THEN WE HAVE A NEWS ARTICLE, DATELINE, MAY 16, THE VERY SAME DAY, IN THE NEW YORK TIMES SAYING THAT TREASURY HAS ANNOUNCED IT WILL NOT BE ENFORCING THIS LAW. IN ORDER FOR ALL OF THIS TO HAVE HAPPENED ON THE SAME DAY, MAY 16, 1984, THE CIA LETTER HAD TO BE DRAFTED, TYPED, REVIEWED, AND SIGNED BY DIRECTOR CASEY; HAND DELIVERED TO THE TREASURY DEPARTMENT, REVIEWED BY SECRETARY REGAN, AND A DECISION REACHED NOT TO ENFORCE THE LAW. THEN SECRETARY REGAN'S MEMORANDUM OF MAY 16 HAD TO BE DRAFTED, REVIEWED, TYPED, SIGNED, AND DELIVERED TO VON RAAB; AND A PRESS RELEASE DRAFTED AND GIVEN TO THE NEW YORK TIMES THAT SAME DAY TO MAKE THE MORNING EDITION FOR MAY 17. WE

ONLY WISH THAT THE LAW WOULD BE ENFORCED WITH SUCH SWIFTNESS. IT MAY BE NO COINCIDENCE THAT MAY 17 WAS THE DAY THAT CONGRESSMAN HOYER'S AMENDMENT TO TREASURY APPROPRIATIONS WAS TO TAKE EFFECT. THAT AMENDMENT BARRED THE TREASURY FROM USING ANY FUNDS NOT TO ENFORCE THE LAW. I WOULD LIKE TO SUBMIT THESE DOCUMENTS FOR THE RECORD.

THANK YOU FOR THE OPPORTUNITY TO BE HERE TODAY AND TO ADDRESS THIS COMMITTEE. I WILL BE GLAD TO ANSWER ANY QUESTIONS.

to John WalkerDepartment  
of the TreasuryOffice of the  
Assistant Secretary  
for Enforcement  
and Operationsroom: \_\_\_\_\_ date 5/16/84Subject: Soviet Forced Labor

Congressman Livingston's office has advised me that a letter is going forth from 15 or more members of Congress plus the "Washington Legal Foundation" which will petition Customs to enforce the Forced Labor provisions of the Tariff Act.

If it has not already arrived, it is expected soon.



cc: Chris Hicks  
Bruce Thompson  
Commissioner von Raab

J. Robert McBrien  
Deputy for Security Affairs  
and Crisis Management  
room 4314  
phone 566-8534

PLAINTIFFS' EXHIBIT 1

16 May 1964

The Honorable Donald T. Regan  
Secretary of the Treasury  
Washington, D. C. 20220

Dear Don:

This letter is written in connection with your statutory responsibilities to prevent the entry into the United States of foreign goods which are produced by convict, forced or indentured labor. We have a good deal of information that the Soviet Union makes extensive use of such labor. We estimate that there are approximately 2 million forced laborers in camps. An additional 2 million or so forced laborers are not confined and are mostly involved in construction.

We have in the past at the request of the Commissioner of Customs furnished information concerning the production of goods with forced labor in the Soviet Union. Although there is convincing evidence that convict and forced labor is used extensively in the Soviet Union, it is fragmentary with respect to specific products. Our information does not enable us to estimate the proportion of total Soviet production of individual products which comes from forced labor. Nor is our information sufficiently precise to allow us to determine whether and to what extent the products of forced labor are exported to the United States.

I am also concerned that the need to make such evidence as we have publicly available, as would almost certainly be necessary for you to carry out your responsibilities, would endanger intelligence sources and methods.

Accordingly, I have to advise you that the Agency's information, while convincing as to the policy and practices of the Soviet Union with respect to forced labor, could not now be provided with sufficient precision to have probative value in a legal proceeding with respect to a particular product. You can be assured that we will continue our work in this area and will keep your Department currently advised if we are able to develop more satisfactory and precise evidence that might be helpful in preventing the entry into the United States of goods produced by convict, forced labor, or indentured labor.

Yours,

*B. J. Casey*  
William J. Casey

PLAINTIFFS' EXHIBIT 2



THE SECRETARY OF THE TREASURY  
WASHINGTON

May 16, 1984

MEMORANDUM FOR WILLIAM VON RAAB  
COMMISSIONER, U.S. CUSTOMS SERVICE

THRU: ASSISTANT SECRETARY WALKER *Jmhl.*

SUBJECT: Merchandise from the Soviet Union Which May be  
Produced by Convict, Forced, or Indentured Labor

In light of the evidentiary material previously provided to me for review, I have considered your recommendation that a finding be published pursuant to section 12.42, Customs Regulations, to the effect that certain classes of merchandise from the Soviet Union which are produced by convict, forced, or indentured labor, either are being, or are likely to be, imported into the United States in violation of section 307, Tariff Act of 1930 (19 U.S.C. 1307).

I have carefully considered that evidence, especially in light of a letter I received today from the Director of the Central Intelligence Agency, a copy of which is attached for your information. I have decided that no determination of any kind is warranted at this time. As you are aware, the Senate Finance Committee has directed the International Trade Commission to review this very matter in depth. I think it necessary, given the current paucity of reliable information, to withhold any determination until we have the benefit of the International Trade Commission's study.

In order to facilitate that study, you are hereby directed to issue instructions to Customs district directors to provide you with monthly reports describing the importation of all Soviet goods entered through their respective districts. In turn, until further notice you are to provide the Assistant Secretary (Enforcement & Operations) with a monthly compilation of the district directors' reports, and to provide that information to the International Trade Commission as well.

*DR*  
Donald T. Regan

PLAINTIFFS' EXHIBIT 3

# Regan Delays Decision On Soviet Import Ban

By CLYDE M. FARNSWORTH

Special to The New York Times

WASHINGTON, May 16 — The Reagan Administration, after a heated internal conflict, has decided to postpone until after the November election any decision to ban imports of Soviet products believed to have been made with forced labor.

The action, announced today by Treasury Secretary Donald T. Regan, was seen as a victory for those in the Cabinet who have been arguing that American trade restrictions would cause further deterioration in relations with Moscow and lead to retaliation against American farm exports.

Most of the Cabinet, led by Secretary of State George P. Shultz, had taken this position, according to Administration officials who have monitored the often angry discussion.

The chief proponent of restrictive action had been Mr. Regan himself, these sources said.

PLAINTIFFS' EXHIBIT 4

Chairman D'AMATO. Certainly.

Mr. POPEO. I would like to commend you, not only for your tremendous work in the area of drug enforcement, but also because of the great political courage that you demonstrate by getting into this area. I think that no politician has anything to gain in Washington or with the bureaucracy of the State Department or Treasury or elsewhere by putting his political marbles on the line to see that the law is enforced and justice is done.

Let me say that, first of all, I have never seen such a bureaucratic sham in my 14 years in Washington, DC. There is no legal reason why the law should not be enforced, simply and strictly except for policy reasons. Notice that no one is saying that by slave labor goods made are not coming into the United States. At the very worst, they are saying that they are just not good enough in their intelligence positions or in their other governmental charged duty-oriented jobs to identify specifically the goods that are coming in and I find that to be quite incredible as well. Remember that we were good enough 1 year ago to identify nickel that was being shipped from Cuba to the Soviet Union to the United States and ban it because we could trace it right to its source in Cuba which violated another Customs law.

Finally, I would just like to add, before I take questions, I think it is amazing that there are people at the Cabinet level in government who witnessed President Reagan become elected with the greatest mandate that any politician has ever been elected with, to stem these type of problems off at their source, to have those Cabinet officials worry about a deterioration of relations with the Soviet Union or some type of trade retaliation. On that note, I welcome your questions.

Chairman D'AMATO. Mr. Popeo, let me ask you, have you read the International Trade Commission's documentation?

Mr. POPEO. We have reviewed it; yes, Senator.

Chairman D'AMATO. Would you like to give us an analysis of what your views are with respect to that report or those reports?

Mr. POPEO. I share your concerns. I think this was a tremendous waste of taxpayers' dollars and it was bureaucratic back-pedaling. After Commissioner von Raab identified the 36 classes of slave-made goods, we then found the trade rep, the Congress, and State Department working in conjunction with bureaucrats at ITC to whitewash those findings. I think it is important to note that they concentrate on chemical and petroleum products and pay very little attention to lumber products and wood products which have been identified by State Department sources and other sources as the chief product that is made with slave-made goods and labor and while we are on the question of ITC, I would like to respond to the gentleman about the Treasury Department with respect to the lawsuit being dismissed.

It was not dismissed, Senator, on the merits. It was on technical grounds and it was not a full and fair hearing as to the merits of the law and enforcement of the law, simply that our clients did not have standing. We intend to pursue that legal action now with the provision of our clients, 35 Senators and Congressmen, also the Longshoremen's Union and the Attorney and Congress of America and we will be in the Federal Circuit Court pursuing that action.

Chairman D'AMATO. In other words, are you making an appeal of that decision?

Mr. POPEO. Yes, sir.

Chairman D'AMATO. Let me ask you this: When Mr. McBrien was talking about the Congressmen not having standing in two places and whether they were the only ones that could have standing but they would also have to indicate that somehow they were affected personally, would you give me your view on that subject?

Mr. POPEO. Well, we contend that they are affected personally, not only in their official positions, but also as consumers who would be buying products that were manufactured with slave-made goods.

Chairman D'AMATO. What you are saying is that you would have to see some adverse impact in the traditional sense if you used the International Trade Court or Court of International Trade in that their business or that they, as individuals in the system of competition, that they would be injured in the traditional sense by loss of business, et cetera?

Mr. POPEO. Sure.

Mr. MILES. Is that what you believe the Court at least was saying in this, its ruling? I am not saying that you agree with it, but it would seem to me after what Mr. McBrien said that the Court was saying. Is that what you are saying?

Mr. POPEO. Yes and incorrectly so. There is ample statute and case law that gives standing to marijuana smokers, hikers, environmental snail darter lovers and others, tying them to similar concerns and situations where they have the standing to sue because they are affected in a minimal way and here we are talking about having the choice not to buy goods made from slave labor in the Soviet Union. I believe we will prevail on that point, Senator.

Chairman D'AMATO. How many judges participated in that decision? Was that a one-judge court or was it three?

Mr. POPEO. It was Judge DeCarlo from New York City and formerly from the State Department, who presided over the matter, sir. I would also like to make one other suggestion to you because I think you, out of everyone in the U.S. Senate and Washington, DC, is probably—

Chairman D'AMATO. The bureaucracy affected them, the service there in the State Department for those 3 years before.

Mr. POPEO. That is right.

Chairman D'AMATO. They should have gotten them out of there before then.

Mr. POPEO. Well, I won't comment on that because we may find ourselves before his bench again, but my suggestion to you, sir, is that you take the matter up directly with President Reagan, because it is clear that the bureaucracy is not going to respond at the highest Cabinet levels and the only answer lies in the Oval Office.

Chairman D'AMATO. I would think that there would be a number of Senators and Congressmen in addition to the members who sit on this Commission who feel strongly enough about this to see to it that at least we get a review of the policy that has brought us to this point and the policy position that seems to be coming from the bureaucracy is, "Don't rock the boat."

Mr. POPEO. Exactly.

Chairman D'AMATO. We want to speak to the Soviets. We have negotiations and this might impair that activity. I am mindful of the summit, the talks that will be coming up, but if this kind of determination over what takes place in our country and the products that we are going to take in would put a damper on talks, then I don't think we are starting off on a very good foundation, and I think that that is maybe the way to test the real legitimacy and concern of the Soviets and their intentions. I think we as citizens have a right to say that we object to slavery. More importantly or just as importantly, we object to having the products of slavery come into this country. It is that simple and I know that my Cochairman, Congressman Hoyer, who is in the other political party, he feels as strongly about this as I do so this is not a Republican or Democrat or political issue, it is an issue really steeped in morality. When do we stand up for what is right and let the Soviets respond, particularly with what we are doing, as a just cause instead of worrying about the consequences of raising the issue?

Mr. POPEO. That is right.

Chairman D'AMATO. You have this Senator. This is the first opportunity, I have never met Mr. Popeo before and did not know that you would be here in your capacity as counsel, but we are deeply appreciative of your being here with us today.

Mr. POPEO. Thank you.

Chairman D'AMATO. And for sharing your insights. I would like to ask you if you would not also respond to some written points that might be a little more technical and we will keep the record open.

Mr. POPEO. Yes, sir.

Chairman D'AMATO. We will give you those questions and I wish you continued success in your endeavors and to bring this matter to a satisfactory resolve.

Mr. POPEO. Thank you. Thank you for all that you have done and thank you for all that you continue to do in this area, Senator.

Chairman D'AMATO. Thank you, Mr. Popeo.

Let me thank the staff who has done a very fine job in gathering the witnesses and also those who participated who have come from Washington and other areas to be with us today. I believe that it is important that we focus the public attention as well. There have been some who ask, "Why have you had this public hearing in Buffalo?" I think that there is no community that has a stronger interest in human rights, the deprivation of human rights that I know of than in western New York and in the Buffalo region and environs and it is an attempt by this Commission to begin to focus the light of public attention on this.

I daresay that there are very, very few Americans who are aware of the travesty that is taking place and the tragic goings on in terms of the products of slave labor coming into this country and that if the American people knew about it, that they would create the kind of impetus that would have the bureaucrats running for cover and have a change in the policy. I think it is a conscious policy that we have made on the part of the administration to duck the issue, the real issue and I think that when we focus public attention on it that is how we get the policies reversed and then we can get the implementation of this law.

This Commission and this hearing stands in recess.

[Proceedings recess at 12:10 p.m.]

## APPENDIXES

### APPENDIX 1

#### U.S. LAW PROHIBITING THE IMPORTATION OF FORCED-LABOR PRODUCED GOODS

##### 1930 Tariff Act

U.S. law prohibiting the importation of goods made with the use of forced labor dates back to the 1930 Tariff Act (Smoot-Hawley), section 307 of which states that "All goods, wares, articles, merchandise mined, produced or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited." (19 U.S.C. 1307) The only exception to this is if the item specified is "not mined, produced or manufactured in such quantities in the United States as to meet the consumptive demands of the United States."

##### Customs Regulations

Responsibility for the enforcement of this provision was directed to the U.S. Customs Service under the Department of the Treasury. The regulations promulgated to implement section 307 are contained in Title 19 C.F.R., sec. 12.42. They state that if, at any time, the Commissioner finds "information that reasonably but not conclusively indicates that merchandise within the purview of section 307 is being, or is likely to be, imported, he will promptly advise all district directors accordingly and the district directors will withhold release of any such merchandise pending instructions from the Commissioner." (para. (e). If it is later determined that the merchandise under investigation is in violation of section 307, "the Commissioner of Customs, with the approval of the Secretary of the Treasury, will publish a finding to that effect in a weekly issue of the Customs Bulletin and in the Federal Register." (para. (f). Any classes of merchandise specified in the finding that has not been released by the Customs Service before the date published in the Federal Register, "shall be considered and treated as an importation prohibited by section 307, Tariff Act of 1930." (para. (g).

##### Canned Crab Meat

There has only been one instance that section 307 of the 1930 Tariff Act has been used to prohibit the entry of goods into the United States from the Soviet Union. In January 1951, with the approval of the Acting Secretary of the Treasury, the Customs Commissioner published a finding that "convict labor, forced labor and indentured labor under penal sanctions are used in whole and in part in the manufacture and production of canned crab meat is manufactured or produced in the United States in sufficient quantities to meet the consumptive demands of the United States." (Federal Register, vol. 16 (1951) p. 776) Soviet canned crab meat was therefore banned from entry into the United States until 1961, when it was determined no longer to come under the purview of section 307. (Federal Register, vol. 26 (1961) p. 2552)

## APPENDIX 2

Legal Elements and Evidentiary Standards for  
Application of 19 U.S.C. §1307, Prohibiting the  
Importation of Convict-Made Merchandise

I. The Statute

The operative sentence of section 1307 provides:

All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, . . . .

An exception, applicable where domestic U.S. demand is not being satisfied, will be quoted and discussed later.

II. The Procedures

A. The Secretary of the Treasury has substantive authority to make "such regulations as may be necessary for the enforcement of this provision." In the exercise of that authority, he has promulgated regulations defining the procedures the Commissioner of Customs is to follow in enforcing section 1307. See 19 C.F.R. §12.42-.44.

B. On receiving written information sufficient to support a decision and after such investigation as is warranted, id. §12.42(a)-(d), if the Commissioner finds "that information available reasonably but not conclusively indicates that merchandise within the purview of section [1307] is being, or is likely to be, imported, . . . the district directors shall thereupon withhold release of any such merchandise . . . ." Id. §12.42(e).

C. If the Commissioner actually determines "that the merchandise is subject to" section 1307, he is to obtain the approval of the Secretary of the Treasury and publish "a finding to that effect" in the Federal Register and the Customs Bulletin. Id. §12.42(f).

D. Any particular entry of merchandise that is (1) within a "class specified in a finding made under paragraph (f)", and (2) still being detained by Customs at the time of the publication, is to be treated as "an importation prohibited by section [1307]" unless the importer is able to establish "by satisfactory evidence that that particular entry of merchandise was not mined,

produced, or manufactured in any part with the use of a class of labor specified in the finding." Any importer, it appears, may voluntarily export the detained merchandise at any time.

E. Absent voluntary exportation, the Customs Service must hold the merchandise until 3 months after the publication or until 3 months after the attempt to import the merchandise, whichever is later. Up until that time, the importer may bring in evidence to establish that the particular merchandise at issue was not made with the use of a class of labor specified in the finding. Id. §12.42(g).

F. If satisfactory proof has not been submitted within 3 months, Customs is to notify the importer "in writing that the merchandise is excluded from entry". After waiting an additional 60 days to permit the importer to export the merchandise or file an administrative protest under 19 U.S.C. §1514, Customs is to treat the merchandise as abandoned and destroy it.

### III. The Legal Elements and Evidentiary Requirements

A. While section 1307 only prohibits the entry of merchandise that actually contains "wholly or in part" components made with prohibited labor, the Secretary has substantive rulemaking power permitting him to detain other merchandise if reasonably necessary to achieve that purpose.

B. The responsibility of the Commissioner (to whom authority to implement the regulations has been delegated) is to make preliminary and (with the approval of the Secretary) final findings concerning whether merchandise is being or is likely to be imported in violation of section 1307. There is no provision granting any importer a right to participate at this stage of the process. In making those findings, under §12.42(e) and (f) of the regulations, both the detailed requirements of §12.42(b) and the protest and judicial review provisions of §12.44 cause us to conclude that the findings must be supported either with (a) a recitation of the evidence and reasons supporting it or (b) the detailed supporting material required to be submitted to the Commissioner under §12.42(b), supplemented with the results of any further investigation he undertakes. This requirement, however, does not require that he reveal classified information and it is expressly contemplated that, should judicial review be sought at any point, the Government should reserve the option of protecting its intelligence sources and methods even at the cost of loss of the litigation. Appropriate unclassified summaries should be substituted to support the findings.

C. 1. Upon receiving information as provided in the regulation, the first step that the Commissioner must take is to define the appropriate class of merchandise. The Commissioner

has the authority to proscribe the entry of "goods, articles or merchandise" through the use of administratively necessary classifications. That is, he is empowered (as a result of his substantive rulemaking authority under section 1307) to define categories of merchandise that are to be detained or excluded despite the fact that a particular class may be somewhat too narrow or too broad to coincide perfectly with the universe of merchandise that was actually produced with convict, forced, and/or indentured labor.

C. 2. In establishing each such class, the Commissioner should use the narrowest classification that he can reasonably establish. That is, by using the most specific Tariff Schedule classification possible, and/or narrowing limitations such as country of origin, manufacturer, or specific physical characteristics, he should seek to avoid prohibiting the entry of any merchandise that is not necessary to the task of excluding the prohibited merchandise. Where possible he should use multiple narrow classifications rather than a single broad one.

D.1. Under the statute and regulations, merchandise is only excludable if it contains "wholly or in part" components made with prohibited labor. That is, the use of tools, factories, energy, or other means that were themselves made with prohibited labor to produce the merchandise will not make the merchandise excludable. In addition, the merchandise is excludable if any part or component is made with prohibited labor, except where the part or component is *de minimus*. Such a rule would comport with the construction given by the Court of International Trade to the term "in part." It would also permit the Treasury to invoke more easily the 1307 exclusion and shift to the importer and producer the burden of proving that the imported article is not "in part" of the offending component by establishing that the economic contribution of the prohibited labor to the article is *de minimus*.

D.2. The legislative history of the statute reflects the intent of Congress to protect American industries from foreign competitors who obtain a competitive advantage by using forced labor. Therefore, with respect to any producer in a free market economy for which such information is available, the Commissioner should make a specific finding that the use of forced labor gives that foreign producer a more than *de minimus* price advantage over American producers. If such information is not available because either the foreign producer or the country in which it is located is unable or unwilling to make such information available or is unreliable because the producer is in a state controlled economy in which costs and prices can be artificially set, then the Commissioner should consider the following in determining whether a competitive advantage resulting from the use of forced labor is more than *de minimus*:

- (a) whether the economy is free market or state controlled;
- (b) the nature of the product (whether labor cost is a significant component);
- (c) the (apparent) value added by use of forced labor;
- (d) the number of parts added or assembled by use of forced labor, relative to the number of parts in the finished product;
- (e) the percentage of time required for production of the article which is contributed by forced labor; and/or
- (f) any other relevant information available.

E. 1. If the class established is excessively overbroad, that is, if it includes too many articles that are not subject to the statutory prohibition, it cannot be justified under the rulemaking authority of the statute. A de minimus rule -- to the effect that goods will only be excludable under section 1307 if the classification chosen is not too overbroad -- should be developed on a case-by-case basis. In order to ensure that this important limitation is actually considered and applied in each case, the question of the overbreadth of each class should be expressly addressed in quantitative terms in each preliminary and each final finding. This step will help avoid a principal cause of the lack of uniformity in our past findings in this area. This is not to say that unrealistic precision should be artificially imposed on information that will not support it. But quantitative ranges (e.g., between 30 and 50%), rather than vague qualitative terms ("substantial" or "small") are needed, and the best estimate that is possible under the circumstances should be stated in the Commissioner's findings.

E. 2. The determination of the amount of overbreadth to be permitted is a judgment that should be made by the Secretary, or his delegate. So long as the overbreadth in each classification has been quantified to the extent that the available information reasonably permits, case-by-case application of the statute and regulations should lead to the evolution of more consistent standards than our past practice. This approach must permit the use of different quantitative standards where a country or other entity refuses to permit the Commissioner to perform an adequate investigation.

F. In deciding whether to act, the Commissioner must determine whether prohibited merchandise of the class defined "is

being or is likely to be" imported. Although research failed to reveal any case in which this language was invoked absent an actual importation -- with the resulting inference that additional merchandise was likely to be imported -- there is no indication in the statute, regulation or legislative history that such a limitation was intended. It seems fair to interpret the word "likely" in accordance with the dictionary definition "reasonably to be expected," and not to read into it any more stringent standard implying that importation must be more likely than not.

G. 1. The Commissioner must then determine whether the exception in section 1307 for "goods, wares, articles, or merchandise ... not mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States" is applicable to any of the classes he has defined. The words "consumptive demand" cannot be read to mean demand at a price influenced or potentially to be influenced by importation of the prohibited merchandise, or the entire statute would be nullified and its purpose not served. Under the circumstances, it seems consistent with the statute only to apply it where there is no possibility of domestic production or what little there is cannot be significantly expanded even at a manyfold increase in price.

G. 2. The exception should use all domestic merchandise that fits within the classification that is selected for the finding (presumably stripping out the country-of-origin and, where applicable, manufacturer limitations), and should also take account of any commercially viable substitutes available in the domestic economy.

## APPENDIX 3

## Synopsis of Sample Cases Under 19 U.S.C. 1307

Crabmeat from the Soviet Union--1950-1961

This case appears to be similar to the current situation. A complaint was received from six Congressmen. The finding was based primarily upon summary information provided by the Central Intelligence Agency. The background briefing memo to the Secretary of the Treasury indicates that the finding was based primarily on this C.I.A. information. It also reflects, that based upon discussions with the Department of State, it was decided to obtain some information which would be available for use in Court should the finding be challenged. Since the Korean War precluded the obtaining of such affidavits through normal channels, a small contingent of Customs officers went to Japan and interviewed some ex-prisoners. Affidavits were obtained from the ex-prisoners indicating that forced labor had been used to can the subject crabmeat. This finding was revoked in 1961 based upon assurances from the State Department that the crabmeat was no longer produced with convict or forced labor.

Cameras from East Germany--1962-1963

The October 11, 1962, background memo reflects that available facts were not very specific but recognized that they were the best facts which could be obtained given the circumstances. Approximately one year later, in June of 1963, the Commissioner determined not to issue a finding based upon the conclusion that "the affidavits furnished do not show that any of the deponents thereof had any first hand knowledge that the particular prison made goods with which they had been associated were exported to the United States."

Cameras from Japan--1965

This case appears to reflect the strongest evidence where the Commissioner did not issue a preliminary determination. The file reflects very specific information that the merchandise in question was produced by convict labor and that indeed some of that merchandise had been actually exported to the United States. The Commissioner determined not to issue a detention order based upon the conclusion that the investigation failed to disclose positive evidence of the use of convict labor for goods imported into the United States "subsequent to its apparent use during 1965."

Rugs from Pakistan--1972

This case appears to represent the situation where the Commissioner issued a detention order on the basis of inconclusive evidence. The

merchandise in question was described as flat, hand woven mats of waste cotton yarns of poor quality and design, lacking in appeal. Based upon the mere allegation that these rugs were woven by convicts in prisons in Pakistan, a detention order was issued. Subsequent investigation resulted in the revocation of the initial determination.

Coal from South Africa--1974

The file reflects that the issue concerning South African mining laws and labor practices was held in abeyance pending a determination of the question of whether "low sulfur coal" was a separate class or commodity of goods from coal generally. The Commissioner declined to issue a detention notice based upon the decision that low sulfur coal did indeed constitute a separate class or commodity of merchandise that was not being produced in sufficient quantity in the United States.

Mini Tanks (Toy Tanks) from Austria--1963

This case represents a situation where very detailed allegations were made concerning specific merchandise manufactured at a specific prison facility. The investigation confirmed the allegations and further found that as of October 2, 1963, the practice had ceased. Accordingly, a finding was issued to prohibit the importation of the subject merchandise exported to the United States prior to October 2, 1963.

Candy filled Toys from East Germany--1958

This case concerned allegations that East Germany was using prisoners to fill toys with candy. After investigation and extensive internal debate, the Commissioner concluded that the mere filling of the toys with candy did not constitute a manufacture or a production and, therefore, neither a detention order nor a finding was issued.

Petroleum Products from Romania--1959

Pursuant to allegations of the use of "convict labor" in oil imported from Romania, the American legation in Romania was asked to investigate the matter. Their response was that convict labor was used in the production of almost everything in Romania. However, the Treasury Department decided not to pursue this case because oil was no longer being imported into the United States from Romania.

Hams from Poland--1956

The allegation by the Department of Agriculture was that Polish farmers were required to meet a production quota and that failure to meet the quota was the basis for the imposition of fines or jail sentences. Although Treasury accepted the proposition that such a practice would be covered by § 1307, it found evidence of such a practice to be insufficient for making a finding to prohibit importation of the hams. The file also contains some discussion of whether Polish hams were comparable to American hams for purposes of determining sufficient domestic production.

Dolls from Hungary--1964

The allegation was mere speculation that low invoice prices were due to convict labor. Field officers were instructed to pursue an investigation under 19 U.S.C. 1592 instead.

Artificial Flowers from East Germany--1957-1959

The allegation was based on a newspaper article. The Department of Treasury declined to issue a finding in the absence of "eye witnesses," although the file does contain declarations from former prisoners regarding the use of convict labor in making the artificial flowers for export.

Furniture from Mexico--1971

A note in the file indicates that on the basis of a preliminary investigation, detention or "constructive seizure" was ordered. At the conclusion of the investigation, a finding was not issued on assurances of no future convict labor shipments. Goods already under detention or "constructive seizure" were exported.

Iron Ore from Algeria--1931 and 1935

Detailed investigation showed that convict labor was used in mining the iron ore imported into the United States. No finding was issued on the basis of assurances that the iron ore shipped to the United States would not involve convict labor. It was discovered in 1935 that "convict labor" iron ore was being imported. Field ordered to detain and report any shipments to Headquarters. No indication in file as to ultimate action.

In addition to the above cases, files were located on approximately 50-60 more cases which were felt not to merit individual synopsis. Some of the cases were closed because they involved one-time shipments or because the allegations were totally unsubstantiated. Many of the cases did result in investigations, but no findings were issued on the basis that convict labor, as intended by the statute, were not involved. Often the merchandise was clearly produced by prisoners, but according to the standard used by Customs at the time, there was no convict labor. Briefly stated, this standard held that if it was found that the work was done voluntarily, on a prisoner's own time, for compensation and with no pecuniary interest to the states (although deductions for room and board were frequently allowed), then there was no convict labor.

## APPENDIX 4

VALUE OF US IMPORTS FROM THE USSR FALLING UNDER THE PURVIEW OF  
SECTION 307 OF THE 1930 (SMOOT-HAWLEY) TARIFF ACT  
(in thousands of U.S. dollars)

| DESCRIPTION                                                             | ITEM NO.         | 1982        | 1983        | 1984             | TOTAL            |
|-------------------------------------------------------------------------|------------------|-------------|-------------|------------------|------------------|
| Tea                                                                     | 160.50           | 400         | 605         | 365              | 1,370            |
| Crude Petroleum                                                         | 475.05<br>475.10 | 15<br>0     | 0<br>55,968 | 9,082<br>174,069 | 9,097<br>230,037 |
| Motor Fuel                                                              | 475.25           | 10,341      | 0           | 2,977            | 13,318           |
| Kerosene                                                                | 475.30           | 0           | 0           | 5,449            | 5,449            |
| Gold Ore                                                                | 601.39           | 82          | 40          | 52               | 174              |
| Agricultural Equipment                                                  | 666.00           | 6           | 20          | 46               | 72               |
| Generators                                                              | 693.60           | 4           | 1           | 0.8              | 5.8              |
| TOTAL                                                                   |                  | 10,848      | 56,634      | 192,040.8        | 259,522.8        |
| TOTAL US IMPORTS FROM USSR                                              |                  | 228,792     | 341,093     | 556,122          | 1,126,007        |
| TOTAL US IMPORTS FROM WORLD                                             |                  | 242,339,988 | 256,679,524 | 322,989,519      | 822,008,656      |
| TOTAL AS PERCENTAGE OF TOTAL US IMPORTS FROM USSR                       |                  | 4.70        | 16.60       | 34.50            | 23.00            |
| TOTAL AS PERCENTAGE OF US IMPORTS FROM WORLD                            |                  | .004        | .022        | .059             | .031             |
| TOTAL US IMPORTS FROM USSR AS PERCENTAGE OF TOTAL US IMPORTS FROM WORLD |                  | .094        | .132        | .172             | .136             |

Compiled by the Commission on Security and Cooperation in Europe (CSCE), based upon the revised recommendation of the U.S. Customs Service and trade statistics from the U.S. Department of Commerce.

## APPENDIX 5

NOTE ON THE ECONOMIC IMPACT OF THE FORCED LABOR BAN

-- The amount of goods imported by the United States from the Soviet Union is relatively small, ranging from less than 0.09% of total U.S. imports in 1982 to 0.17% of total U.S. imports in 1984. The value of U.S. exports to the Soviet Union in most years is usually six to ten times the value of U.S. imports from the Soviet Union.

-- Estimates of the percentage of total imports from the Soviet Union affected by the proposed forced labor ban vary widely from year to year, from \$10.8 million in 1982 to \$192 million in 1984 or from 4.7% of total imports from the USSR in 1982 to 34.5% of total imports from the USSR in 1984.

-- Concerning all US imports, the ban would affect from .004% of total US imports from the world in 1982 to .059% in 1984.

-- As U.S.-Soviet trade expands, the value of the goods affected by the ban may increase. From 1982 to 1984 alone, U.S. imports from the U.S.S.R. have increased by 143%.

-- The low value of U.S. imports affected by the ban supports rather than opposes arguments in favor of the ban. It means that there will be little if any impact on US-Soviet trade since US exports to the USSR dominate US imports from the USSR. Further, the items affected do not represent a major portion of US imports from the USSR. When the total trade of the United States and the Soviet Union with the rest of the world is examined, as well as the size of their economies (the two largest in the world), the economic implications of a forced-labor import ban become even less significant.

## APPENDIX 6

Central Intelligence Agency



Washington, D.C. 20505

## DIRECTORATE OF INTELLIGENCE

27 September 1983

## U.S. Imports of Soviet Prison-Produced Goods

1. Attached is a list of Soviet industries which, in part, utilize forced labor and produce goods for export. We cannot determine the contribution forced labor makes to either the total output or exports in each industry, nor can we provide a list of brand names or products.

2. We know that, in 1982, about 80 percent of U.S. imports from the USSR were accounted for by metals, chemical and chemical products (mainly ammonia), fertilizers, furs and fur raw materials, and alcoholic beverages. The biggest single item was ammonia--39 percent--which was imported as part of the Occidental-USSR Fertilizer Exchange Agreement, under which the U.S. exports super-phosphoric acid to the USSR.

3. Some of the items we import are probably produced by corrective labor. A Reader's Digest article, for example, gives evidence of Western purchases of prison-made furniture. But the amount of U.S. imports of Soviet goods produced by forced labor cannot be large. Last year U.S. imports from the Soviet Union totalled \$229 million (less than .1 of one percent of total U.S. imports). Corrective labor comprises about three percent of the total Soviet labor force and accounts for only a small proportion of total Soviet production of the listed items; and, presumably, a correspondingly small share of exports. We can assume, therefore, that only a very small proportion of U.S. imports from the USSR consists of prison-produced goods.

Attachment:  
as stated

Based on a variety of intelligence sources and open publications with information from former prisoners, CIA has compiled the following list of industries and products in which forced labor is used extensively.

#### I. Wood Products

- A - lumber
- A - furniture
- C - casings for clocks
- D - cabinets for radio and TV sets
- C - wooden chess pieces
- F - wooden souvenirs
- C - wooden crates for fruit and vegetables
- H - cardboard containers

#### II. Electronic

- A - cathode ray tube components
- B - resistors

#### III. Glass

- A - camera lenses
- B - glassware
- C - chandeliers

#### IV. Automotive

- A - auto parts
- B - wheel rims
- C - parts for agricultural machinery

#### V. Mining/Ore Processing

- a - gold
- b - iron
- c - aluminum
- d - coal and peat
- e - uranium
- f - asbestos
- g - limestone
- h - construction stone and gravel

#### VI. Clothing

- a - coat, gloves, boots
- b - buttons and zippers

## VII. Petroleum Products and Chemicals

## VIII. Food

## A - Tea

## IX. Miscellaneous

- a x brick and tile
- b x watch parts
- c - wire fences, mattresses, screens
- d x steel drums and barrels
- e - lids for glass jars
- f - plumbing equipment
- g - storage battery cases
- h - concrete products
- i x electric plugs/cords
- j x electric heaters
- k x electric motors
- l x pumps
- m x woven bags

## APPENDIX 7

SEP 28 1983

EXECUTIVE SECRETARY

THROUGH: Assistant Secretary (Enforcement and Operations)

Commissioner of Customs (Signed) William von Pazb

Withholding of Release of Merchandise from Soviet Union Which  
May be Produced by Convict, Forced, or Indentured Labor

Submitted for your approval is a document prepared for publication in the Federal Register which advises that in accordance with section 307, Tariff Act of 1930 (19 U.S.C. 1307) and section 12.42, Customs Regulations (19 CFR 12.42), I have determined on the basis of information reasonably available that certain articles from the Soviet Union may be now, or are likely to be, imported into the United States, which are being produced whether by mining, manufacture, or other means, with the use of convict, forced, or indentured labor. While we realize that section 12.42 does not necessarily require publication of this type of notice, we believe the importing public deserves notice of actions of this magnitude. In addition, publication removes any possible legal objections based upon lack of notice.

We propose that, effective 5 days from the date of publication of the notice in the Federal Register, the release for consumption or withdrawal from warehouse for consumption of the specified articles, be withheld. Customs officers will be instructed to withhold release of any such articles pending instructions as to whether they may be released otherwise than for exportation.

As you are aware, in February of this year, the Department of State, in a letter of transmittal accompanying its Report To The Congress On Forced Labor In The USSR, declared that forced labor is used "to produce large amounts of primary and manufactured goods for both domestic and Western export markets." Senator William L. Armstrong of Colorado has inquired as to what Customs is doing to prevent such articles from being imported into the United States. Further, the lack of enforcement of 19 U.S.C. 1307 is raised in an article on forced labor in the Soviet Union published in the Reader's Digest in September 1983. I believe

Simpson

Schaffer

De Angelus

Abbey

Newcomb  
Bates

that many other members of Congress and the American public are also concerned with this matter and would support this effort on our part to ensure that such articles are not imported. Accordingly, it is recommended that you approve the document as soon as possible.

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

HMA:ernick:s1:9/28/83

DEPARTMENT OF THE TREASURY  
UNITED STATES CUSTOMS SERVICE

19 CFR Part 12

(T.D. 83- )

WITHHOLDING OF RELEASE OF MERCHANDISE FROM SOVIET UNION WHICH  
MAY BE PRODUCED BY CONVICT, FORCED, OR INDENTURED LABOR

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Withholding of Release of Merchandise.

SUMMARY: This document advises that based on available information, the Commissioner of Customs has made a finding which indicates that certain articles imported in the United States from the Soviet Union may be produced, whether by mining, manufacture, or other means, with the use of convict labor, forced labor, or indentured labor under penal sanctions. Because such merchandise is being, or is likely to be, imported into the United States in violation of the Tariff Act of 1930 and the Customs Regulations, the release from Customs custody for importation of any of the specified articles is being withheld pending a final determination on this issue.

DATE: This withholding shall take effect on (5 days after date of publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT:

John P. Simpson, Director, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229  
(202) 566-2507.

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

Section 307, Tariff Act of 1930 (19 U.S.C. 1307), provides, in part, that "all goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision."

"Forced labor", as used in 19 U.S.C. 1307, is defined to "mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily."

Based upon 19 U.S.C. 1307, section 12.42, Customs Regulations (19 CFR 12.42), sets forth a procedure for the Commissioner of Customs to make a finding that an article is being, or is likely to be, imported into the United States which is being produced, whether by mining, manufacture, or other means, in any foreign locality with the use of convict labor, forced labor, or indentured labor under penal sanctions so as to come within the purview of 19 U.S.C. 1307.

Paragraph (e) of section 12.42, Customs Regulations, provides that if the Commissioner of Customs finds at any time that information available, reasonably but not

conclusively, indicates that merchandise within the purview of 19 U.S.C. 1307 is being, or likely to be, imported, he will promptly advise all district directors of Customs accordingly and the district directors shall withhold release of the merchandise from Customs custody pending instructions as to whether the merchandise may be released otherwise than for exportation.

#### PINDING

Pursuant to section 12.42(e), Customs Regulations, information available reasonably, but not conclusively, indicates that certain articles of the Soviet Union are being, or are likely to be imported into the United States, which are being produced, whether by mining, manufacture, or other means, with the use of convict, forced, or indentured labor. Accordingly, on and after (5 days after the date of publication in the Federal Register) the release from Customs' custody for consumption or withdrawal from warehouse for consumption of the following articles from the Soviet Union shall be withheld:

| Articles                         | Item Number from<br>Tariff Schedules<br>(19 U.S.C. 1202) |
|----------------------------------|----------------------------------------------------------|
| Lumber                           | 202.02-202.66                                            |
| Furniture                        | 727.11-727.55                                            |
| Clock Cases (Wood)               | 720.34                                                   |
| Radio-TV Cabinets                | 685.18, 685.29, 685.36                                   |
| Chess Pieces (Wood)              | 734.15                                                   |
| Wooden Souvenirs                 | 207.00                                                   |
| Wooden Crates                    | 204.10-204.30                                            |
| Cardboard Boxes                  | 256.48-256.54                                            |
| Cathode Ray Tubes and Components | 687.35-687.54                                            |

|                                                 |                                                             |                                                                                                                                |
|-------------------------------------------------|-------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| Resistors                                       | 686.10                                                      |                                                                                                                                |
| Camera Lenses                                   | 708.03, 708.23                                              |                                                                                                                                |
| Glassware including<br>Chandellers              | Schedule 5, Part<br>3, Subpart C-<br>Item 545.11-<br>548.05 |                                                                                                                                |
| Auto Parts                                      | 692.32                                                      | } Note-Because of<br>General Headnote<br>19<br>(1-j) parts are<br>entered through-<br>out the<br>TSUS, mainly in<br>Schedule 6 |
| Wheel Rims                                      | 692.32                                                      |                                                                                                                                |
| Agricultural Parts                              | 666.00                                                      |                                                                                                                                |
| Gold Ores                                       | 601.39                                                      |                                                                                                                                |
| Iron Ore and Maganese Ore                       | 601.24, 601.27                                              |                                                                                                                                |
| Bauxite                                         | 601.06                                                      |                                                                                                                                |
| Uranium Ore                                     | 601.57                                                      |                                                                                                                                |
| Coal Lignite                                    | 521.31                                                      |                                                                                                                                |
| Asbestos                                        | 518.11                                                      |                                                                                                                                |
| Limestone Crushed                               | 513.35-513.26                                               |                                                                                                                                |
| Construction Stone                              | 513.61-515.54                                               |                                                                                                                                |
| Gravel                                          | 513.14                                                      |                                                                                                                                |
| Men's-Boy's Ornamented Coats-Cotton             | 379.02, 379.06, 379.08                                      |                                                                                                                                |
| " " " " -Wool                                   | 379.13, 379.17                                              |                                                                                                                                |
| " " " " -Man Made<br>fibers                     | 379.23, 379, 31, 379.33                                     |                                                                                                                                |
| " " " " -Other                                  | 379.35                                                      |                                                                                                                                |
| " " " Not Orna-<br>mented -Cotton               | 379.39, 379.43-379.46                                       |                                                                                                                                |
| " " " " -Vegetable<br>fibers ex-<br>cept cotton | 379.66, 379.69                                              |                                                                                                                                |
| " " " " -Wool                                   | 379.71, 379.75, 379.78,<br>379.81, 379.83                   |                                                                                                                                |
| " " " " -Silk                                   | 379.86, 379.87                                              |                                                                                                                                |

|                                 |   |   |   |                                         |                                           |
|---------------------------------|---|---|---|-----------------------------------------|-------------------------------------------|
| "                               | " | " | " | -Man-made<br>fibers                     | 379.89, 379.94, 379.95                    |
| Women's-Girl's Ornamented Coats |   |   |   |                                         |                                           |
| "                               | " | " | " | -Cotton                                 | 383.02, 383.05                            |
| "                               | " | " | " | -Wool                                   | 383.12, 383.15                            |
| "                               | " | " | " | -Man-made<br>fibers                     | 383.19, 383.22                            |
| "                               | " | " | " | -Other                                  | 383.25                                    |
| Not Ornamented Coats            |   |   |   |                                         |                                           |
| "                               | " | " | " | -Cotton                                 | 383.28, 383.32-383.34                     |
| "                               | " | " | " | -Vegetable<br>fibers ex-<br>cept cotton | 383.52, 383.53                            |
| "                               | " | " | " | -Wool                                   | 383.57, 383.62, 383.65,<br>383.68, 383.72 |
| "                               | " | " | " | -Silk                                   | 383.77, 383.78                            |
| "                               | " | " | " | -Man-made<br>fibers                     | 383.81, 383.88, 383.90                    |
| Gloves                          |   |   |   |                                         | 704.05-705.90                             |

|                                |                                                       |
|--------------------------------|-------------------------------------------------------|
| Boots                          | Schedule 7, Part 1, Sub-part A - Item 700.10-700.71   |
| Buttons                        | 745.04-745.42                                         |
| Zippers (Slide Fasteners)      | 745.70-745.74                                         |
| Chemicals                      | Schedule 4 - Item 401-02-407.16, 415.05-432.25        |
| Petroleum                      | 475.05-475.70                                         |
| Tea                            | 160.50                                                |
| Brick & Tile                   | 532.11-532.61                                         |
| Watch Parts                    | 720.20-720.30, 720.60, 720.65, 720.70, 720.75, 720.90 |
| Fencing (Metal Wire)           | 642.35-642.87, 642.02                                 |
| Mattresses                     | 727.82-727.86                                         |
| Screening                      | 642.35-642.87                                         |
| Drums-Barrels                  | 640.20-640.30                                         |
| Lids, of steel, for glass jars | 657.25                                                |
| Plumbing Equipment             | Various                                               |
| Storage Battery Cases          | 683.07                                                |
| Concrete Products              | 511.31-511.71                                         |
| Electric Plugs                 | 685.90                                                |
| Electric Cords                 | 688.04, 688.25                                        |
| Electric Heaters               | 684.40, 684.20                                        |
| Electric Motors and Parts      | 682.20-682.60                                         |
| Pumps                          | 660.97                                                |
| Bags of Textile Materials      | 385.45-385.55                                         |

Based upon this finding, Customs officers shall withhold release of any of these articles from the Soviet Union pending instructions as to whether they may be released otherwise than for exportation.

This withholding shall remain in force pending a final determination as to whether the merchandise listed in this notice is subject to 19 U.S.C. 1307.

(Signed) William von Raab

Commissioner of Customs

Dated: \_\_\_\_\_

## APPENDIX 8

SECOND AND FINAL CUSTOMS RECOMMENDATION ON SECTION 307  
TO THE SECRETARY OF THE TREASURY  
FEBRUARY 1984

| <u>DESCRIPTION</u>     | <u>ITEM NO.</u> |
|------------------------|-----------------|
| TEA                    | 160.50          |
| CRUDE PETROLEUM        | 475.05; 475.10  |
| MOTOR FUEL             | 475.25          |
| KEROSENE               | 475.30          |
| GOLD ORE               | 601.39          |
| AGRICULTURAL EQUIPMENT | 666.00          |
| GENERATORS             | 683.60          |

## APPENDIX 9

~~George H. W. Bush~~

16 May 1984

The Honorable Donald T. Regan  
Secretary of the Treasury  
Washington, D. C. 20220

Dear Don:

This letter is written in connection with your statutory responsibilities to prevent the entry into the United States of foreign goods which are produced by convict, forced or indentured labor. We have a good deal of information that the Soviet Union makes extensive use of such labor. We estimate that there are approximately 2 million forced laborers in camps. An additional 2 million or so forced laborers are not confined and are mostly involved in construction.

We have in the past at the request of the Commissioner of Customs furnished information concerning the production of goods with forced labor in the Soviet Union. Although there is convincing evidence that convict and forced labor is used extensively in the Soviet Union, it is fragmentary with respect to specific products. Our information does not enable us to estimate the proportion of total Soviet production of individual products which comes from forced labor. Nor is our information sufficiently precise to allow us to determine whether and to what extent the products of forced labor are exported to the United States.

I am also concerned that the need to make such evidence as we have publicly available, as would almost certainly be necessary for you to carry out your responsibilities, would endanger intelligence sources and methods.

Accordingly, I have to advise you that the Agency's information, while convincing as to the policy and practices of the Soviet Union with respect to forced labor, could not now be provided with sufficient precision to have probative value in a legal proceeding with respect to a particular product. You can be assured that we will continue our work in this area and will keep your Department currently advised if we are able to develop more satisfactory and precise evidence that might be helpful in preventing the entry into the United States of goods produced by convict, forced labor, or indentured labor.

Yours,

*WJC*  
William J. Casey

## APPENDIX 10



THE SECRETARY OF THE TREASURY  
WASHINGTON

May 16, 1984

MEMORANDUM FOR WILLIAM VON RAAB  
COMMISSIONER, U.S. CUSTOMS SERVICE

THRU: ASSISTANT SECRETARY WALKER *Jmly.*

SUBJECT: Merchandise from the Soviet Union Which May be  
Produced by Convict, Forced, or Indentured Labor

In light of the evidentiary material previously provided to me for review, I have considered your recommendation that a finding be published pursuant to section 12.42, Customs Regulations, to the effect that certain classes of merchandise from the Soviet Union which are produced by convict, forced, or indentured labor, either are being, or are likely to be, imported into the United States in violation of section 307, Tariff Act of 1930 (19 U.S.C. 1307).

I have carefully considered that evidence, especially in light of a letter I received today from the Director of the Central Intelligence Agency, a copy of which is attached for your information. I have decided that no determination of any kind is warranted at this time. As you are aware, the Senate Finance Committee has directed the International Trade Commission to review this very matter in depth. I think it necessary, given the current paucity of reliable information, to withhold any determination until we have the benefit of the International Trade Commission's study.

In order to facilitate that study, you are hereby directed to issue instructions to Customs district directors to provide you with monthly reports describing the importation of all Soviet goods entered through their respective districts. In turn, until further notice you are to provide the Assistant Secretary (Enforcement & Operations) with a monthly compilation of the district directors' reports, and to provide that information to the International Trade Commission as well.

*DR*  
Donald T. Regan

## APPENDIX 11

**INTERNATIONAL PRACTICES AND  
AGREEMENTS CONCERNING  
COMPULSORY LABOR AND  
U.S. IMPORTS OF GOODS  
MANUFACTURED BY  
CONVICT, FORCED, OR  
INDENTURED LABOR**

Report to the Committee on  
Finance, United States Senate  
on Investigation No. 332-  
176 Under Section 332  
of the Tariff Act of 1930



**USITC PUBLICATION 1630**

**DECEMBER 1984**

**United States International Trade Commission / Washington, D.C. 20436**

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

Paula Stern, Chairwoman

Susan W. Liebeler, Vice Chairman

Alfred E. Eckes

Seeley G. Lodwick

David B. Rohr

---

Kenneth R. Mason, Secretary to the Commission

---

This report was prepared under the direction of Reuben Schwartz, Chief  
Textiles, Leather Products, and Apparel Division

Joseph L. Williams, Project Leader  
Textiles, Leather Products, and Apparel Division

Janis Summers  
Office of Tariff Affairs

with assistance from the  
Office of the General Counsel

---

Office of Industries  
Norris A. Lynch, Director

---

Address all communications to  
Office of the Secretary  
United States International Trade Commission  
Washington, D.C. 20436

## PREFACE

On January 30, 1984, at the request of the Senate Committee on Finance and in accordance with section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the United States International Trade Commission instituted investigation No. 332-178 to examine the nature and extent of imports into the United States of goods that are wholly or partially manufactured by convict, forced, or indentured labor. In addition, the Commission was requested by the Committee to review the application of domestic and international law to international trade in such items, particularly section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

Notice of this investigation was given by posting copies of the notice of investigation at the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publication of the notice in the Federal Register (49 F.R. 4855, Feb. 6, 1984).

In the course of this investigation, the Commission collected data and information from the U.S. Customs Service, the U.S. Department of the Treasury, the U.S. Department of State, the Central Intelligence Agency, published sources, and interested parties.

## EXECUTIVE SUMMARY

The importation of goods produced with compulsory labor has been an area of concern in the United States for at least 100 years. The United States first enacted a prohibition on the importation of goods manufactured with convict labor <sup>1/</sup> in the McKinley Tariff Act of 1890 and the prohibition was expanded and modified to cover products of forced <sup>2/</sup> or indentured labor <sup>3/</sup> in section 307 of the Smoot-Hawley Tariff Act of 1930. (The terms convict, forced, or indentured labor when used in the aggregate will hereafter be referred to as compulsory or prohibited labor.) The use of section 307 has been relatively infrequent, and the only case currently under review by Customs to ban imports of products made with compulsory labor concerns allegations made against goods from the Soviet Union.

United States Federal and State prison systems operate prison industry programs. Most of the products produced, including textile and apparel articles, furniture, license plates, and brushes, are either used by the institution or sold to other institutions and to Federal, State or other tax-supported agencies. Goods produced in prisons generally are banned from interstate commerce, but there is no legal prohibition against exports of products made by convict labor in State institutions. It is estimated that less than \$100,000 of prison-made goods are exported from the United States annually.

Foreign governments also maintain prison industry systems. Although some prison populations are large, notably those in the People's Republic of China and the Soviet Union, it is believed that most of the output of the foreign prison systems is consumed internally and little is exported.

Since 1922, many international agreements and conventions have been adopted to restrict the use of and improve the conditions of compulsory labor. These agreements focus on the human rights aspect of the issue and do not address the implications of possible international trade in products made from compulsory labor.

It should be noted that this report was prepared in response to a Congressional request for specified information to the extent such information was available. In reviewing the major findings of this report, it should be understood that the Commission did not have the resources to verify independently information provided by other government agencies or by other persons or entities at the Commission's request. The Commission has attempted to compile in one report information not previously available in a single source. The report is not intended for use in any investigation under section 307 or any other provision of the Customs law.

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<sup>1/</sup> Convict labor refers to work performed by an individual who has been convicted of a criminal act by a court of law. Work performed by persons in prison, but not convicted of a crime, would usually not be considered convict labor in the strict sense but could be considered forced labor.

<sup>2/</sup> Forced labor means all work or service which is extracted from any person under the menace of penalty for nonperformance and for which the worker does not offer himself voluntarily. However, the term "forced labor" does not include activities such as military service and civic obligations.

<sup>3/</sup> Indentured labor is work performed under contract but where the contract can be enforced through imposition of a penalty or by imprisonment.

The major findings of the study are as follows:

- o The United States has banned imports of goods made with convict labor since 1890.

Imports of goods manufactured with convict labor were first prohibited in the McKinley Tariff Act of 1890 for the economic protection of U.S. workers. In the Smoot-Hawley Tariff Act of 1930, the ban was broadened, in section 307 of the act, to include goods that were "mined or produced" as well as manufactured, and the prohibited types of labor were expanded to include forced or indentured labor. However, the prohibition does not include merchandise which may have a compulsory-labor content but which is not produced in sufficient quantities domestically to meet consumptive demand. The prohibition has not changed since 1930 and, until 1982, had been applied only as a means of protecting U.S. workers.

- o Enforcement of the ban on imports of goods made with compulsory labor is the responsibility of the U.S. Customs Service.

Federal regulations give the responsibility for enforcement of section 307 to Customs, which is required to gather information and determine if certain goods should be excluded from entry into the United States. A determination of whether goods are produced with compulsory labor is difficult, since import documentation does not require such identification. In addition, physical examination of the goods does not reveal if they are made with compulsory labor, and information about production conditions in foreign countries is often limited. In the case of certain closed societies, little or no information is available.

- o There has been only limited application of section 307 and enforcement decisions have been made with a wide degree of discretion.

Since 1930, there have been approximately 60 to 75 instances where interested parties have requested, and/or Customs has considered, the application of section 307. Examination of Customs' files reveals wide variations in the nature of the investigations conducted and the amount of information gathered. In part these variations are a necessary result of the discretion Customs must exercise in each case because of the varying amount and degree of reliability of the information available relating to the imports of goods made with compulsory labor. In addition, the bases for final disposition of the cases are not always provided.

In addition, Customs has adopted certain administrative practices that have allowed certain goods made with compulsory labor to enter the United States. On an ad hoc basis, Customs has permitted the importation of prison goods where the size of the shipment was small, where the prisoners were working voluntarily and were compensated, or where importers promised not to enter subsequent shipments.

- o There has been increased attention given to enforcement of section 307 since 1982, particularly with respect to imports from the Soviet Union.

In 1982, allegations of the use of forced labor in the construction of the Soviet-Siberian gas pipeline stimulated public interest in the application of section 307 to exclude imports from the Soviet Union. 1/ In 1983, the Commissioner of the U.S. Customs Service submitted to the U.S. Department of the Treasury his determination that certain products being or likely to be imported from the Soviet Union were being made with compulsory labor. However, no final decision has been reached with respect to prohibiting the import of such products. In this case there is the possibility that section 307 would be applied to exclude a broad range of products made with compulsory labor, rather than individual products, as in the past. Proponents of such a broad exclusion order appear to be primarily concerned about human rights violations rather than protection against unfair import competition.

- o In order to clarify Customs practices and assure consistent application of the statute to all U.S. trading partners, Customs has proposed new guidelines with respect to administration of section 307.

Customs has proposed new administrative guidelines intended to result in a more uniform application of section 307. The guidelines interpret and expand the existing regulations used to enforce section 307 2/ and deal with topics including investigative procedures, defining classes of merchandise for possible exclusion, and exceptions to section 307. The new guidelines may not lead to more consistent application of section 307 to imports of goods made with compulsory labor, since they broaden Customs' discretion in administering the statute and do not provide specific guidance with respect to evidentiary standards, investigative procedures and schedules, criteria for initiating investigations, and rules for making final determinations.

- o International agreements and conventions have no direct effect on international trade in goods made with compulsory labor.

There are at least nine international agreements dealing with the use of compulsory labor. Although the agreements and conventions seek to ban or humanize practices such as slavery, slave labor, and forced or indentured labor, they do not ban convict labor. In addition, the agreements deal with the human rights aspect of compulsory labor and are not directly concerned with controlling or regulating trade in products made with such labor. Control of trade is left to national legislation.

The United Nations and the International Labor Organization are the major organizations where alleged violations are discussed and complaints filed. Both of these organizations have mechanisms for receiving and investigating

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1/ The U.S. Department of State, in a Feb. 9, 1983 letter of transmittal of its Report to the Congress on "Forced Labor in the U.S.S.R.," stated that forced labor was reportedly used in preliminary work on the export pipeline and that the U.S. media had directed public attention to this matter, as well as to the Soviet Union's current forced labor practices.

2/ See 19 CFR 12.42-.45 in app. A.

complaints of alleged human rights violations, but often the investigations can be conducted only if the subject country is cooperative, and there is no established method for enforcing recommended corrective measures.

- o About 10 to 12 percent of the U.S. prison population is employed in prison industries, and nearly all of the goods produced are consumed within the prison system or by other public and nonprofit agencies.

The U.S. prison population declined slightly from 1960 to 1970, then increased from 196,000 in 1970 to 316,000 in 1980, and in 1983 reached an estimated 420,000. In State prisons, which account for over 90 percent of the combined State and Federal prison population, about 10 percent of the inmates are employed in prison industries. In Federal prisons, about 25 percent are employed in prison industries. There is little involvement of private industry in prison industries, few sales of goods on the open market, and exports of prison-made goods are estimated at less than \$100,000. Products made in Federal prisons can be sold only to Government agencies, and products of State prison industries generally cannot be transported in interstate commerce, except under special conditions.

- o While no firm data are available, United States imports of prison manufactured goods are believed to represent a small percentage of total U.S. trade.

Although the total prison population of the countries covered in this investigation is estimated to total about 9 million, relatively few prison workers are believed to be used to produce goods for the export market. A large proportion of the prisoners are reportedly employed in prison housekeeping and maintenance, public works, construction, local agriculture, or other activities which do not produce products which enter into commerce. Prisoners producing commercial products, most of which are consumed within the countries in which they are made, are estimated to number less than 3 million.

Major free-market countries which represent the bulk of trade into the United States normally do not export prison-made goods into the United States. For example, Canada, Japan, Mexico, and the EC, which together supply 60 percent of the total value of U.S. imports, have an estimated total prison population of less than 300,000. In nearly all these countries, only convicted criminals are required to work, and in most cases only 40 to 70 percent of the convicted prisoners participate in work programs at any given time. Additionally, much of the convict labor is engaged in "housekeeping" work in support of the operation of the correctional institutions. As a result, it is estimated that, in these major supplying countries as a group, less than 100,000 prisoners are engaged in producing products suitable for commercial distribution. Even when prison workers are making products to be sold outside the correctional system, the products are often sold to other government agencies or for local consumption. Also, government policies may discourage exports of goods made with compulsory labor or the goods may not be suitable for export because of poor quality. As a result, only a small quantity of output is potentially available for export.

Nonmarket economy countries, especially China and the U.S.S.R., although accounting for under 2 percent of total U.S. imports, represent the largest potential suppliers of compulsory-labor goods. The Russian prison population is estimated at 4 million, but only 1.2 to 1.3 million are believed to be engaged in the manufacture of goods which might enter international commerce. Imports of such goods from the U.S.S.R. may include products such as various chemicals and related products, metal ores, glassware, miscellaneous metal articles, agricultural equipment, furniture and wood cabinets, electrical equipment, and certain petroleum products, with estimated potential imports in the range of \$11 to \$28 million. Although no firm data are available on China's prison population, one source estimates that the population there totals at least 3 to 4 million persons. However, about three-quarters of the prisoners are concerned with agricultural work and producing items which are consumed domestically. It is estimated that approximately 1 million prison laborers produce the types of products which could enter into international trade, a portion of which might be imported into the United States. Among U.S. imports from China, products most likely to have some compulsory-labor content include handmade rugs, fireworks, baskets and bags, and selected apparel items. While both countries are believed to export some compulsory-labor products, in the past 20 years there have been no documented complaints to the U.S. Customs Service about U.S. imports of such products and no efforts to develop information about the quantity of imports until the pending cases involving imports from the Soviet Union.

## APPENDIX 12

The Director of Central Intelligence

Washington, D.C. 20505

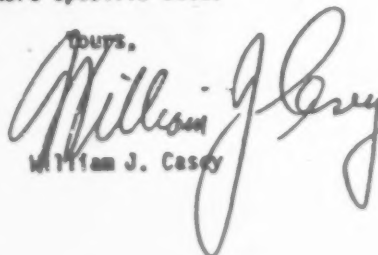
17 January 1985

The Honorable Donald T. Regan  
Secretary of the Treasury  
Washington, D.C. 20220

Dear Don,

In the wake of the release of the ITC report on the use of forced labor in foreign countries to produce goods for export, I thought I should write you to update the status of our research on this issue. Despite continued monitoring, we are unable to obtain sufficient facts to make a solid case that any particular good we receive from the USSR is produced by convict, forced, or indentured labor.

You will recall that on 16 May I sent you a letter which stated that according to our most recent analysis 3 percent of total Soviet labor is forced. That analysis remains valid, but I can find nothing in the ITC report that indicates the availability of more specific data.

Yours,  
  
William J. Casey

## APPENDIX 13



THE SECRETARY OF THE TREASURY  
WASHINGTON 20220

January 28, 1985

MEMORANDUM FOR WILLIAM VON RAAB  
COMMISSIONER  
U.S. CUSTOMS SERVICE

THRU: ASSISTANT SECRETARY WALKER *J. Walker*  
SUBJECT: Merchandise from the Soviet Union Which May  
be Produced by Convict, Forced, or Indentured  
Labor

On September 28, 1983, you recommended to me that a finding be published pursuant to section 12.42, Customs Regulations, to the effect that certain classes of merchandise from the Soviet Union which are produced by convict, forced, or indentured labor, either are being, or are likely to be, imported into the United States in violation of section 307, Tariff Act of 1930 (19 U.S.C. 1307). The categories of products covered by your original proposal were modified by your memorandum of December 2, 1983.

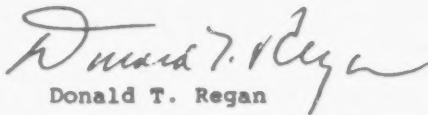
As you will recall, on May 16, 1984, I informed you that the evidence then available did not warrant a decision at that time to withhold any Soviet products from importation. My decision was based upon careful consideration of the available evidence and, in particular, the views of the Director of Central Intelligence on that information, which had been provided by the Central Intelligence Agency. In deferring a determination, I specifically chose to wait until the completion of the International Trade Commission's review of forced labor practices throughout the world.

The International Trade Commission issued its report on forced labor practices on December 18, 1984. After thorough examination of the report, I have concluded that it provides no additional evidence which might support a decision to prohibit the importation of any Soviet-produced goods into the United States. Indeed, the report further discredits the already meager evidence about two of the products identified in your recommendation. Furthermore, the ITC has expressly cautioned that its report is not intended for use as evidence in any administrative proceeding.

I have also received another letter from the Director of Central Intelligence which updates the CIA's views as originally expressed in May, 1984. This latest letter, a copy of which is attached, confirms that the CIA has continued to monitor information on Soviet forced labor practices and that the CIA still is not able to make a "solid case" that any specific forced labor goods are imported into the United States.

In light of the report of the International Trade Commission and the current views of the Central Intelligence Agency, I find that the available evidence provides no reasonable basis in fact to establish a nexus between Soviet forced labor practices, and specific imports from the Soviet Union. Consequently, based upon the evidence currently available to me, I have decided that there presently is no basis upon which to prohibit or withhold from importation into the United States any goods produced within the Soviet Union. Accordingly, your recommendation of September 28, 1983, is not adopted.

While this is a final decision with respect to your recommendation and the evidence currently available, it does not preclude the introduction at a later date of new evidence about the possible importation of Soviet products made by convict, forced, or indentured labor.

  
Donald T. Regan

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